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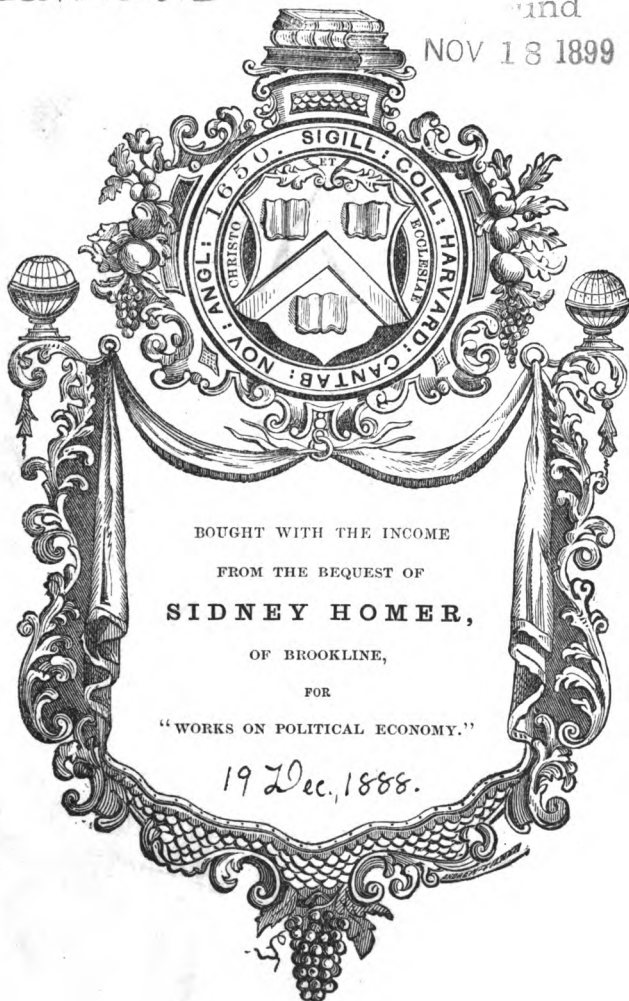
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A GUIDE
TO THE
INCOME TAX ACTS
FOR THE USE OF THE
ENGLISH INCOME TAX PAYER.

BY
Macdonald
ARTHUR M. ELLIS, LL.B. (Lond.),
SOLICITOR,

Author of "A Guide to the House Tax Acts."

SECOND EDITION.

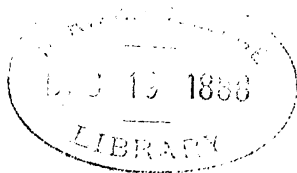
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PREFACE TO SECOND EDITION

THE fact of a Second Edition having been called for within a year of the publication of the first makes me hope that the Work has been found useful. This Edition has been carefully revised, and I hope that it may be found free from errors, although the task I have set myself, of giving a connected reading of more than twenty-four Acts of Parliament, the language of which is not more free from ambiguity than such language usually is, is no easy one. The cases which have been decided since the last Edition was published are noted in the present Edition. The cases given as "unreported" are to be found in a series of reports printed for the use of the Inland Revenue Office, but not in the reports generally accessible to the public. I have been indebted for useful information on some points to the new edition of "Bourdin's Land Tax," recently edited by Mr. Shirley Bunbury, Assistant Registrar of Land Tax.

A. M. E.

February, 1886.

PREFACE TO FIRST EDITION.

My aim in writing this book has been to provide the income tax payer in England with a guide to the enactments scattered through, at least, four-and-twenty Acts of Parliament, in pursuance of which that tax is assessed and levied. I have divided the book into four chapters; the first describes the officials concerned in assessing, charging, and collecting, the tax; the second deals with the properties and profits which are the subjects of the tax; the third describes the methods of assessment and collection; and the fourth treats of the allowances, abatements, and relief, which the income tax payer may claim on one ground or another, and of the modes in which assessments erroneously made are corrected. In treating of these topics I have used, as far as possible, the very words of the Acts of Parliament; and I hope it will be found that I have brought into something like an orderly arrangement all the enactments in the existing Acts relating to the income tax which concern the English income tax payer. I have made no attempt to bring in those which only concern the officials employed, or deal with the routine of the departments. The cases which have been decided upon the Income Tax Acts will be found shortly stated in connection with the enactments which they respectively elucidate. References to the Acts of Parliament quoted will be found

at the foot of each page; and I have added an index which I hope will enable the reader to find readily any enactment falling within the scope of the work to which he may have occasion to refer. To make the work of reference easier, I have added in the margins of the pages, where the paragraphs are of some length, short analyses of their contents. A list of cases cited, and a list of statutes, will be found preceding the first chapter. The work can make no claim to originality: I hope it may make some to utility.

A. M. E.

February, 1885.

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INCOME TAX ACTS.

CHAPTER I.

THE INCOME TAX AND THE OFFICIALS CONCERNED IN ASSESSING, CHARGING, AND COLLECTING IT.

The Income Tax an Annual Tax.—The income tax is levied year by year, under the authority of an Act of Parliament passed annually, which determines the amount of the tax for the current financial year—that is, for the year which ¹begins on the 6th April and ends on the 5th April following. The machinery by which the tax is charged and collected derives its force from each annual Act, which generally continues the existing machinery, with, perhaps, some changes made in certain particulars in which experience has suggested a possibility of improvement. The income tax, as we know it, was first established in 1842, and the Act of that year (5 & 6 Vict. c. 35) which imposed the tax constituted the machinery, which, in its main features, still remains. In describing the authorities concerned in the business of assessing, charging, and collecting, the income tax, the property, profits, and gains, which are the subject of the tax,

¹ 43 & 44 Vict. c. 19, s. 48.

Chap. I. the mode of assessing, charging, and collecting, the tax, and the means to be employed in order to secure the various exemptions, allowances, and deductions, which may be claimed by persons who are assessed, we shall have to notice all the provisions, in whatever Act contained, by which at the present time these subjects are regulated; but it must be remembered that all these provisions are, strictly, in force for one year only, and depend for their validity in any particular year upon the Act of that year which refers to, and continues, them, and without which they would expire. So much is this the case, that, to prevent the inconvenience which would otherwise arise from the passing of the annual Act being delayed until after the close of the financial year, it has now become the practice to insert in each annual Act a clause "to ensure the collection in due time of any duties of income tax which may be granted for the ensuing year," by which all provisions in any Act relating to the income tax which are in force on the 5th April, in the year current at the time the annual Act is passed (that is, on the last day of the then current financial year) are made to have full force and effect with regard to the duties of income tax which may be granted in the ensuing year.

Officials.—The persons concerned with the assessment and collection of the income tax are (1) The Commissioners of Her Majesty's Treasury, (2) The Commissioners of Inland Revenue, (3) The Commis-

sioners for Special Purposes, (4) The Commissioners for General Purposes, (5) The Additional Commissioners, (6) The Clerks to the Commissioners, (7) The ¹Surveyors, (8) The Assessors, and (9) The Collectors. Chap. I.

The Commissioners of Her Majesty's Treasury.—²The Commissioners of Her Majesty's Treasury, or, to give them their full title, the Commissioners of Her Majesty's Treasury of the United Kingdom of Great Britain and Ireland, are the persons appointed by her Majesty's letters patent for executing the offices of Lord High Treasurer of Great Britain and Lord High Treasurer of Ireland. ³The signatures of any two of the Commissioners are sufficient to validate any document which the Commissioners are required to sign. In the ⁴Taxes Management Act, 1880, these Commissioners are compendiously styled "the Treasury," and we shall for the future in speaking of them adopt that term. The Treasury ⁵has chief control, and superintendence, as regards the assessment, and collection, of income tax.

The Commissioners of Inland Revenue.—The Commissioners of Inland Revenue are ⁶a consolidated

¹ To whom we should, perhaps, add Inspectors. See note ⁵ p. 25, *post*.

² 56 Geo. III. c. 98, s. 2.

³ 12 & 13 Vict. c. 89.

⁴ 43 & 44 Vict. c. 19.

⁵ 56 Geo. III. c. 98, s. 2; 43 & 44 Vict. c. 19, s. 12.

⁶ 12 & 13 Vict. c. 1, s. 1.

Chap. I. Board of Commissioners representing the old Commissioners of Excise, and Commissioners of Stamps and Taxes, ¹whose powers and authorities they exercise. The Commissioners are appointed ²by her Majesty under the Great Seal of the United Kingdom, and hold office during pleasure. ³For income tax purposes any two of the Commissioners form a quorum. ⁴Their chief office, which is called the "Chief Office of Inland Revenue," must be at such place, within the limits designated as the limits of the "Chief Office of Excise" by an Act passed in the eighth year of George IV., as the Treasury appoints. These limits are ⁵the cities of London and Westminster, the borough of Southwark and the suburbs thereof, the parishes within the ⁶weekly bills of mortality, and the parishes of St. Marylebone and St. Pancras in the County of Middlesex. The Commis-

¹ 12 & 13 Vict. c. 1, s. 3.

² 12 & 13 Vict. c. 1, s. 2.

³ 43 & 44 Vict. c. 19, s. 5.

⁴ 12 & 13 Vict. c. 1, s. 5.

⁵ 7 & 8 Geo. IV. c. 53, s. 14.

⁶ The weekly bills of mortality are accounts of the births and deaths within a certain district, which has varied from time to time, but may be said now to be comprised in the general description "the cities of London and Westminster, the borough of Southwark, and the suburbs thereof." The bills of mortality are said to date from 1592, but their regular publication from 1603, with some intermission during the Great Fire of London. The parishes of St. Marylebone and St. Pancras have never been included in the district.

sioners of Inland Revenue are styled in the ¹ Taxes Management Act, 1880, "the Board," and we shall adopt that term. ²The Board have the direction, and management, under the Treasury, of the assessment and collection of the income tax. We may conveniently describe here the offices of the Receiver-General of Inland Revenue and the Collectors of Inland Revenue, whom we shall by and by have occasion to mention. ³The Receiver-General of Inland Revenue is an officer who represents the old Receiver-General of Excise, and Receiver-General of Stamps and Taxes. His office was created by the same Act, which constituted the Board, and was a necessary consequence of the consolidation of the two old Commissionerships of Excise and Stamps and Taxes. ⁴The Receiver-General of Inland Revenue holds office during the pleasure of the Treasury. The ⁵Collectors of Inland Revenue are officers appointed by the Board to be Collectors, or officers for receipt, either of one, or of several, of the branches, or descriptions, of revenue under the management of the Board, who appoint the counties, or districts, or circuits, of receipt in which such Collectors respectively act.

The Commissioners for Special Purposes.—⁶The

¹ 43 & 44 Vict. c. 19.

² 16 & 17 Vict. c. 34, s. 4; 43 & 44 Vict. c. 19, s. 12.

³ 12 & 13 Vict. c. 1, s. 6, and see sect. 17.

⁴ 12 & 13 Vict. c. 1, s. 6.

⁵ 12 & 13 Vict. c. 1, s. 15.

⁶ 5 & 6 Vict. c. 35, s. 23, and 12 & 13 Vict. c. 1, s. 17.

Chap. I. Board, and such persons as the Treasury by warrant under their hands and seals from time to time appoint as they think expedient, are Commissioners for Special Purposes, or, as we shall call them shortly, Special Commissioners. No other qualification is required of a Special Commissioner than the possession of his office. The Special Commissioners are allowed such salary for their trouble, and such incidental expenses, as the Treasury may direct to be paid to them. The Treasury cause an account of all appointments of Special Commissioners with salaries to be laid before each House of Parliament within twenty days after appointment, if Parliament is then sitting, and if not, within twenty days after the meeting of Parliament. The following persons are also Special Commissioners for the purposes mentioned in connection with such persons respectively in the following list:—

Governor
and Direc-
tors of
Bank of
England.

¹ The Governor and Directors of the Company of the Bank of England are Commissioners for the purpose of assessing and charging the duties of income tax in respect of all annuities payable to the said company at the receipt of the exchequer, and the profits attached to the same and divided amongst the several proprietors; and in respect of all annuities, dividends, and shares of annuities, payable out of the revenue of the United Kingdom to any persons, cor-

INCOME TAX ACTS.

porations, or companies whatever, and entrusted to the said governor and company for such payment; and in respect of all profits and gains of the said company chargeable under Schedule D.; and in respect of all other dividends, annuities, pensions, and salaries payable by the said company; and in respect of all other profits chargeable with income tax and arising within any office or department under the management or control of the said governor and company. Chap. I.

¹The Commissioners for the Reduction of the National Debt are Commissioners for the purpose of assessing and charging duties of income tax in respect of all annuities payable by them out of the revenue of the United Kingdom; and in respect of all salaries and pensions payable in any office or department under their management or control. Commissioners for Reduction of National Debt.

²The Lord Chancellor, the judges, and the principal officer or officers of each Court or department of office under her Majesty throughout Great Britain, whether the same is civil, judicial, or criminal, ecclesiastical or commissary, military or naval, have authority to appoint Commissioners from amongst the officers of each Court or department of office respectively, and Lord Chancellor, Judges, &c.

¹ 5 & 6 Vict. c. 35, s. 28.

² 5 & 6 Vict. c. 35, s. 30.

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the persons so appointed, or any three or more of them, not in any case exceeding seven, are Commissioners for assessing and charging duties of income tax in relation to the offices in each such Court or department accordingly. But in relation to each department of office, not being one of her Majesty's Courts, civil, judicial, or criminal, or an ecclesiastical or commissary Court, the Treasury, whenever they think it expedient, settle and determine in what particular departments Commissioners shall not be appointed; and in such case they settle and determine in what other department of office the officers of that department in which Commissioners are not appointed shall be assessed. And whenever there is default in the officers of any department, or in any Court aforesaid, in appointing Commissioners, the Treasury appoint fit and proper persons to be Commissioners in the several Courts and departments of office aforesaid, for which they are appointed, from amongst the officers in the several departments respectively, uniting in cases requiring the same, two or more offices under the same Commissioners, but nevertheless with distinct officers from each office so united for assessing the duties of income tax. The Treasury have authority to determine any dispute which may arise touching the department in which any office is executed.

¹ The Speaker and the principal clerk of either Chap. I.
 House of Parliament, the principal or other The
 officers in the several counties palatine and the Speaker
 Duchy of Cornwall, or in any ecclesiastical Court, and Prin-
 or in any inferior Court of Justice, whether of cipal Clerk
 law or equity, or criminal or justiciary, or under of either
 any ecclesiastical body or corporation, whether House of
 aggregate or sole, throughout Great Britain, Parlia-
 have authority to appoint Commissioners from ment,
 amongst the persons executing offices in either Officers of
 House of Parliament, or in their respective Counties
 departments of office, and the persons so ap- Palatine,
 pointed, or any three of them, not in any case &c.
 exceeding seven, are Commissioners for assessing
 and charging the duties of income tax in rela-
 tion to the places, offices, and employments of
 profit in each House of Parliament, and in each
 such department respectively. The names of the
 Commissioners appointed must be transmitted
 to the Board, and in default of appointment as
 aforesaid, the appointments are made by the
 Treasury.

² The Mayor, Aldermen, and Common Council,
 or the principal officers or members, by whatever
 name they are called, of every corporate city,

¹ 5 & 6 Vict. c. 35, s. 31.

² 5 & 6 Vict. c. 35, s. 32. This section was repealed by s. 9
 of the Customs and Inland Revenue Act, 1876 (39 & 40
 Vict. c. 16), but was revived by sect. 7 of the Customs, Inland
 Revenue, and Savings Bank Act, 1877 (40 & 41 Vict. c. 13).

Chap. I.

borough, town, or place, and of every cinque port throughout Great Britain, or any three or more of them, not exceeding seven, are Commissioners for assessing and charging the duties of income tax in relation to the public offices, or employments of profit, in such city, corporation, and cinque port, and in every guild, fraternity, company, or society, whether corporate or not corporate, within such city, corporation, or cinque port.

¹ The appointment of Commissioners in relation to the duties of income tax upon the offices, and employments of profit, mentioned in the foregoing list, must be notified to the Board within one calendar month after the 5th of April in every year, and in default of notification the appointment devolves upon the Treasury, to whom the Board notify the default. If the appointment is not made by the Treasury within a month after the default is notified to them, the General Commissioners for the district act until another appointment is made. ² All persons appointed Special Commissioners are required, before acting in relation to ³the duties in Schedule D., to take ⁴the prescribed oath, which may be administered by a General or Special Commissioner, and any Special Commissioner acting (except in administering the

¹ 5 & 6 Vict. c. 35, s. 33.

² 5 & 6 Vict. c. 35, s. 38.

³ As to these duties, see *post*, pp. 78 *et seq.*

⁴ 5 & 6 Vict. c. 35, s. 16.

oath) before he has taken the oath, is liable to a Chap. I. penalty of 100%.

The Commissioners for General Purposes.—The Commissioners for General Purposes, or, as we shall call them shortly, the General Commissioners, are selected from another body of Commissioners, called the Land Tax Commissioners. We must begin, therefore, by explaining who the Land Tax Commissioners are. In the first place, ^{Land Tax Commissioners.} ¹all persons who act as justices of the peace for any county, shire, riding, division, or district, and who possess the estate qualification presently referred to, are Land Tax Commissioners within their respective counties, &c. In addition to these *ex officio* Commissioners, certain other persons holding good positions in the localities in which they reside are appointed from time to time by Act of Parliament to be Land Tax Commissioners for the several counties, divisions of counties, cities, boroughs, and other places, which form ²separate districts for the purposes of the land tax.

¹ 7 & 8 Geo. IV. c. 75, s. 1.

² By “districts” we must be understood here to mean the “divisions of the country for which separate Commissioners act,” not the “parishes and other districts for which separate Assessors act.” The case of *Reg. v. Land Tax Commissioners for the Tower Division* (2 E. & B. 694) introduced the use of the word “division” for the Commissioners’ district, and of the word “district” for the Assessors’ district. The “divisions” may be found in 38 Geo. III. c. 5, s. 2. The enactment is concerned with the proportions in which the several “divisions” are to be assessed and taxed, and it proceeds

Chap. I. Formerly it was the custom to introduce their names and addresses and the localities in which they were empowered to act into the Act by which they were appointed; but in the year 1869 the practice seems to have commenced, which has since been continued, of including these particulars in a schedule, which is signed by, and deposited with, the clerk of the House of Commons, and afterwards published in the London Gazette. ¹The last Act appointing Land Tax Commissioners was passed on the 27th June, 1881, and, as it refers to no Act of the same kind earlier than the 7 & 8 Geo. IV. c. 75, we may infer that the names of all existing Land Tax Commissioners, who are not justices of the peace, may be found in that and the subsequent Acts which have been passed for the same purpose, or (since 1869) in the schedules referred to by these Acts, and published in the London Gazette. For the estate qualification required of a Land Tax Commissioner, and the oaths to be taken by him before exercising his office, we must refer to the enactments enumerated ²below. The General Commissioners are

The
General
Commis-
sioners.

upon the principle of stating the proportion in which some particular city, town, borough, liberty, or place in a county is to be assessed and taxed, and then the proportion in which the rest of the county is to be taxed. The land tax, which had before been an annual tax, was made perpetual by 38 Geo. III. c. 60.

¹ 44 Vict. c. 16.

² 38 Geo. III. c. 5, ss. 49, 50, 92—95; 38 Geo. III. c. 48, ss. 1, 3; 9 Geo. IV. c. 38, s. 3.

selected from the Land Tax Commissioners in the following manner:—¹The Board, whenever they deem it necessary to do so, convene, by notice inserted in the London Gazette, meetings of the Land Tax Commissioners; and thereupon the Land Tax Commissioners for each county, riding, shire, or division of the same, and for each city, borough, cinque port, liberty, franchise, town, and place, for which separate Commissioners have been appointed with exclusive jurisdiction for putting in execution the ²Land Tax Acts within the same, meet at the time and place appointed by the notice, within the district for which they act, and there choose such of the Land Tax Commissioners appointed for such district as possess the qualifications ³presently mentioned, and are fit and proper persons to act as General Commissioners for the same district. The names of the persons chosen to be General Commissioners are set down in writing in the order in which the major part of the Land Tax Commissioners present think fit they should be appointed General Commissioners; and any seven, or any number less than seven not less than three, of the persons whose names are set down

¹ 5 & 6 Vict. c. 35, s. 4; 12 & 13 Vict. c. 1, s. 17.

² The phrase "Land Tax Acts" is used in the sense in which it is used in the Taxes Management Act, 1880 (43 & 44 Vict. c. 19), where it is defined (s. 5) as "any Act or part of any Act relating in any way to the assessment or redemption of the Land Tax."

³ See *post*, pp. 18—20.

Chap. I. to act as General Commissioners, in the order in which their names are set down, are the General Commissioners for the district. Vacancies among the General Commissioners are supplied from a list made by the Land Tax Commissioners in the way we shall ¹presently mention. If the Land Tax Commissioners present at any meeting cannot find amongst the Land Tax Commissioners for the district seven persons to act as General Commissioners, and seven to supply vacancies, they may appoint any persons residing within the district and possessing the required qualification, who are in their judgment fit and proper persons, although not Land Tax Commissioners, to be General Commissioners, until the two numbers of seven and seven have been supplied; and if they cannot find amongst the Land Tax Commissioners of the district, and such other persons as have been referred to, the requisite number of fourteen, they may select so many persons as may be required to make up that number from the Land Tax Commissioners acting for any adjoining or neighbouring district. ²In the case of a city, borough, town, or other place of the kind, if a sufficient number of persons capable of acting as General Commissioners are not chosen or appointed, any person qualified to act as General Commissioner for the county at large, or riding, or

If number of persons in district qualified to be General Commissioners is insufficient.

¹ See *post*, pp. 15, 16.

² 5 & 6 Vict. c. 35, s. 6.

shire, in, or adjoining to, which such city, &c. is situate, may be chosen to act as General Commissioner for such city, &c.; and in the case of a city, &c., as of a county, &c., a person otherwise duly qualified, and resident within the city, &c., although not a Land Tax Commissioner, may be appointed a General Commissioner in case of need. ¹Where seven persons duly qualified have been chosen to act as General Commissioners for any district, no other person may interfere. ²In case any General Commissioner dies, or declines to act, or having begun to act declines to act any further, the remaining General Commissioners choose one of the persons whose names appear on the vacancy list, who, if he has been chosen in the same manner as the person in regard of whom the vacancy occurs, is appointed to act in his place. ³The vacancy list is made thus:—⁴the Land Tax Commissioners at their meeting, after choosing General Commissioners, go on to set down the names of persons qualified to be General Commissioners, and any seven, or any number less than seven not less than three, of these last-named persons, whose names appear in the Land

In case
any
General
Commis-
sioner
dies.

The
"vacancy"
list.

¹ 5 & 6 Vict. c. 35, s. 4. Except, of course, when expressly authorised to do so. That this is a necessary qualification must be already evident; it is provided for by the words contained in the section quoted, "except as hereinafter mentioned," and its extent will appear as we proceed.

² 5 & 6 Vict. c. 35, s. 7.

³ 5 & 6 Vict. c. 35, s. 6.

⁴ 5 & 6 Vict. c. 35, ss. 4, 7.

Chap. I. Tax Commissioners' list next in order after the names of those persons who have been chosen General Commissioners are Commissioners to supply vacancies in the body of General Commissioners. If the Land Tax Commissioners cannot find within their district seven persons to put upon the vacancy list, they may fill up the number in the same manner as in like case they may fill up the number of General Commissioners. The vacancy list is made up and renewed from time to time as need requires by the Land Tax Commissioners at their meetings; and if it happens at any time to be defective, so that the due number of Commissioners cannot be supplied from it, it is filled up and renewed by the acting General Commissioners for the district. In certain cities and towns persons may be chosen to act as General Commissioners together with the General Commissioners who have been chosen in the ordinary way. ¹Thus, in the City of London two Commissioners and two to supply their vacancies may be named by the Mayor and Aldermen of London out of eight persons, four of whom must be aldermen, to be returned to them by the Common Council; two other Commissioners and two to supply their vacancies may be named by the Governor and Directors of the Bank of England; and one other Commissioner and one to supply his vacancy may be named by each of the following companies, viz.:—the Governor

In certain cities and towns persons may be chosen to act with the General Commissioners.

¹ 5 & 6 Vict. c. 35, s. 5.

and Directors of the Royal Exchange Assurance Company, the Governor and Directors of the London Assurance Company, the Directors for conducting and managing the affairs of the East and West India Dock Company, and the Directors for conducting and managing the London Dock Company, and the Saint Katharine Dock Company respectively for the time being. In the City of Norwich, the magistrates and justices of the peace acting in, and for, the city may choose eight persons to be Commissioners and eight persons to supply their vacancies, not more than four of the first eight, and four of the second eight, to be chosen from among the magistrates and justices, and the remainder to be chosen from among the inhabitants of the city. In each of the following cities and towns, viz. :—Bristol, Exeter, Kingston-upon-Hull, Newcastle-upon-Tyne, Birmingham, Liverpool, Leeds, Manchester, King's Lynn, and Great Yarmouth, the magistrates and justices of the peace acting in, and for, the city or town, together with the justices of the peace acting in, and for, the county, riding, or division, in which the same is situate, may choose eight persons to be Commissioners, and eight to supply their vacancies. ¹The names of all persons so chosen must be returned to the Board. ²If in any district there is neglect in appointing General Commissioners, or the General Commis-

If in any
district
there is

¹ 5 & 6 Vict. c. 35, s. 5, and 12 & 13 Vict. c. 1, s. 17.

² 5 & 6 Vict. c. 35, s. 8, and 12 & 13 Vict. c. 1, s. 17.

Chap. I.
neglect in
appointing
General
Commissioners,
or the
General
Commissioners
appointed
decline to
act.

sioners appointed neglect, or refuse, to act, or having begun to act decline to act further, the Land Tax Commissioners for the district, on notice of the neglect to appoint, &c., being given to their Clerk by any Surveyor authorized by the Board to give such notice, being duly qualified to act as General Commissioners, or any of them not exceeding seven in number, must act as General Commissioners; and if there is in any district a want of General Commissioners, the Commissioners for any adjoining district in the same county, riding, division, or shire, if possessing the required qualification, must, on receiving like notice, act as General Commissioners, by themselves or in concurrence with any persons willing to act as General Commissioners in the district in which such want occurs. If the persons before mentioned, to whom notice as aforesaid has been given, do not, within ten days after receiving the notice, take upon themselves to act as General Commissioners, the ¹Special Commissioners must act as General Commissioners within the district. ²The estate qualification required for any district, or division of any county in England, except the county of Monmouth, and for any of the ridings of the county of York, and for the cities or towns of London, Westminster, Bristol, Exeter, Kingston-upon-Hull, Newcastle-upon-Tyne, Norwich, Bir-

In certain
cases of
default
Special
Commissioners
must act.

Estate
qualifica-
tion for
General
Commissioners in
England,

¹ See *ante*, pp. 5, 6.

² 5 & 6 Vict. c. 35, s. 10.

mingham, Liverpool, Leeds, Manchester, King's Chap. I.
 Lynn, and Great Yarmouth, is the possession of except in
 lands, tenements, or hereditaments, freehold, or Mon-
 copyhold, or leasehold, whereof not less than seven mouth-
 years are unexpired, in Great Britain of the value of shire.
 200*l.* a year, or more, over and above all ground
 rents, incumbrances, and reservations, payable out of
 the same; or the possession of personal estate of the
 value of 5,000*l.*, or of a personal estate, or an interest
 therein, producing an annual income of 200*l.*; or the
 possession of lands, tenements, or hereditaments, and
 personal estate or an interest therein, which together
 are of the annual value of 200*l.*; or being the eldest
 son of some person who is possessed of an estate of
 thrice the value required as the qualification of a
 Commissioner in right of his own estate. One hun-
 dred pounds of personal estate is, for the purpose of
 qualifying in right of the Commissioner's own estate,
 reckoned as equivalent to 4*l.* a year; and an interest
 from personal estate of 4*l.* a year as equivalent to
 100*l.* of personal estate. ¹The estate qualification re- Estate
 quired for the office of General Commissioner in qualifica-
 any district or division of the county of Mon- tion for
 mouth, or of any county in Wales, or in any city, General
 borough, cinque port, liberty, franchise, town or Commis-
 place, in England or Wales, other than the cities sioners in
 or towns before mentioned, is the possession of an Mon-
 estate of the nature, and of four-fifths of the value, mouth-
shire or
Wales.

¹ 5 & 6 Vict. c. 35, s. 11.

Chap. J. required for the estate of a Commissioner acting for a district, or division, of a county in England (other than the county of Monmouth), or being the eldest son of a person possessed of an estate of thrice the value required as the qualification of a General Commissioner for the same county, &c. ¹No estate consisting of lands or tenements for the qualification of a Commissioner need be situate in the county, riding, division, or shire, for which the person whose qualification it constitutes is a Commissioner.

Proof of qualification on person acting.
Oath to be taken by General Commissioner.

The proof of qualification lies on the person acting as Commissioner. ²Every General Commissioner before he begins to act in relation to the ³duties contained in Schedule D. must take the ⁴prescribed oath, which any one of the persons appointed General Commissioners may administer. The oath is subscribed by the person taking it, and any General Commissioner acting in relation to the duties in Schedule D. (except by administering the oath) is liable to a penalty of 100*l*.

The Additional Commissioners.—⁵The Additional Commissioners are appointed by the General Commissioners. The mode of appointment is as follows:—Whenever the General Commissioners for any district

¹ 5 & 6 Vict. c. 35, s. 14.

² 5 & 6 Vict. c. 35, s. 38.

³ As to these duties, see *post*, pp. 78 *et seq*.

⁴ The oath is given in Schedule F. of 5 & 6 Vict. c. 35.

⁵ 5 & 6 Vict. c. 35, s. 16.

think it expedient that the powers given by the Income Tax Acts should be executed by Commissioners other than, and in addition to, General Commissioners appointed in the way we have described, and at the same time do not desire to exercise the power given them, as we shall ¹presently explain, to appoint a greater number of General Commissioners, they, at any meeting held for that purpose, set down in writing lists of the names of such persons residing within their respective districts as are in their opinion fit and proper persons to act as Additional Commissioners, and have the estate qualification required of an Additional Commissioner, that is, an estate of the nature, and of one-half the amount, required for the qualification of a General Commissioner in the same district. The General Commissioners may appoint so many Additional Commissioners as they in their discretion, after taking into consideration the size of the district, and the number of persons to be assessed therein, think requisite. The lists of the names of the persons appointed Additional Commissioners are, when signed by the General Commissioners, sufficient authority for the persons appointed Additional Commissioners to act in that capacity. ² Notice in writing of their appointment is given by the General Commissioners to the Additional Commissioners, through the Assessors of the parishes or

¹ See *post*, pp. 22, 23.

² 5 & 6 Vict. c. 35, s. 19.

Chap. I. places in which the Additional Commissioners reside ; and the notice requires them to assemble on a day, not more than ten days after the date of the notice, when the oath which they are required to take is administered to them by the General Commissioners.

¹ The persons appointed to supply vacancies among the General Commissioners in any district may be appointed Additional Commissioners, until their services are required as General Commissioners. ² The General Commissioners may, whenever they think proper, divide the Additional Commissioners into district committees, and allot to each committee distinct parishes, wards, or places, in which such committees may act separately. Not more than seven persons may act together as Additional Commissioners for the same district, if not formed into several divisions in the manner above mentioned ; and no more than seven persons may act as Additional Commissioners on any committee into which the Additional Commissioners for the district are divided. When more than seven Additional Commissioners attend any meeting, the seven first in order on the list then present act, and the rest withdraw. Two Additional Commissioners form a quorum at any meeting of their body. ³ If the acting General Commissioners, whether they have been chosen, or act by virtue of

Acting
General
Commis-
sioners

¹ 5 & 6 Vict. c. 35, s. 16.

² 5 & 6 Vict. c. 35, s. 20.

³ 5 & 6 Vict. c. 35, s. 21.

their appointment as Land Tax Commissioners, **Chap. I.**

think it expedient that a greater number than seven may appoint more General Commissioners. General Commissioners, possessing the required estate qualification, should be appointed for any district, they may appoint more General Commis-

sioners, not exceeding seven in number, instead of appointing Additional Commissioners, observing with regard to such appointment the same rules as in the first appointment of General Commissioners, but without adding any persons to supply their vacancies.

If the General Commissioners avail themselves of this power to increase their number, they choose by lot not less than two, nor more than seven, of their own body, to execute the office of Additional Commissioners, and the remaining members of their body act as General Commissioners. General Commissioners acting as Additional Commissioners. If no Additional Commissioners are appointed specially to execute the powers vested in Additional Commissioners, the Acting General Commissioners, whether chosen, or acting by virtue of their appointment as Land Tax Commissioners, divide themselves, so that two of them at least are appointed to execute the powers vested in Additional Commissioners. If, after such appointment as last mentioned, there are not two persons at least remaining qualified to act as General Commissioners for the district, then the persons qualified to act as General Commissioners for any adjoining district may act as General Commissioners in the district in which the deficiency has occurred. All persons appointed Additional Com-

Chap. I. missioners are required, before acting in relation to the ¹duties in Schedule D., to take the ²prescribed oath, which may be administered by a General or Special Commissioner; and ³every person acting as Additional Commissioner in relation to the duties in Schedule D. before he has taken the oath, is liable to a penalty of 100*l*.

Clerks to Commissioners.—⁴The General Commissioners in each district, at their first meeting in every year, which must be held before the 10th April, elect a fit person to be their Clerk; and the person who is elected Clerk becomes by virtue of such election sole Clerk to the Commissioners for the year, and is not removeable except for just cause, and at a meeting of the Commissioners for that purpose duly summoned by notice in writing, signed by the Commissioners, and served on each of the Commissioners who have qualified in, and for, the district, by the major part of the Commissioners present. The Clerk is not to take or receive any fees, gratuities, or perquisites, for anything done by him in his official character, except from the person appointed by the Board to pay him the allowances he is entitled to, which are set out in the first schedule to the ⁵Taxes Management Act,

¹ As to these duties, see *post*, pp. 78 *et seq*.

² The form of the oath is given in Schedule F. of 5 & 6 Vict. c. 35.

³ 5 & 6 Vict. c. 35, s. 38.

⁴ 5 & 6 Vict. c. 35, s. 9; 43 & 44 Vict. c. 19, s. 41.

⁵ 43 & 44 Vict. c. 19.

1880. Any vacancy occurring in the course of the year by the death, dismissal, or resignation of any Clerk is filled up by the General Commissioners electing a person to be Clerk for the remainder of the year. Any Clerk or Clerk's assistant wilfully obstructing or delaying the execution of the Income Tax Acts, or negligently conducting, or wilfully misconducting, himself in the exercise of his office, renders himself liable to a penalty of 100*l.*, and dismissal from his office, and becomes incapable of again acting as Clerk or Clerk's assistant. ¹The Clerk to the General Commissioners for any district, or his assistant, acts also as Clerk to the Additional Commissioners for the same district. ²Every person acting as Clerk or Clerk's assistant in relation to the ³duties in Schedule D. is required to take the ⁴prescribed oath, which may be administered by a General, or Special, or Additional Commissioner; and ⁵any person acting as Clerk or Clerk's assistant in relation to the duties in Schedule D. before he has taken the oath is liable to a penalty of 100*l.*

Surveyors.—⁵The Surveyors are officers appointed

¹ 5 & 6 Vict. c. 35, s. 19.

² 5 & 6 Vict. c. 35, s. 38.

³ As to these duties, see *post*, pp. 78 *et seq.*

⁴ The form of the oath is given in Schedule F. of 5 & 6 Vict. c. 35.

⁵ 5 & 6 Vict. c. 35, s. 37; 43 & 44 Vict. c. 19, s. 17. The Inspectors, of whom frequent mention is made in the Acts relating to income tax, are chosen from the ranks of Sur-

Chap. I. from time to time by the Treasury for the survey and inspection of the duties of income tax. The Treasury appoint their allowances and salaries. ¹Every Surveyor is required, before he begins to act in relation to the ²duties in Schedule D., to take the ³prescribed oath, which any General, or Special, or Additional Commissioner may administer; and, if he acts in relation to the duties in Schedule D. before he has taken the oath, he is liable to a penalty of 100%. A Surveyor who wilfully makes a false and vexatious charge of duty, or wilfully delivers or causes to be delivered to the General Commissioners a false and vexatious ⁴certificate of charge of duty, or a false and vexatious ⁵certificate of objection to any supplementary return, or is guilty of any fraudulent, corrupt, or illegal practices in the execution of his office, or knowingly or wilfully, through favour, undercharges, or omits to charge, any person, incurs a penalty of 100% for every such offence, and on conviction will be discharged from his office.

Assessors
—appoint—

Assessors.—The Assessors are appointed either by
veyors of experience. As regards the public, their duties seem to be similar to those of Surveyors.

¹ 5 & 6 Vict. c. 35, s. 38.

² As to these duties, see *post*, pp. 78 *et seq.*

³ The form of the oath is given in Schedule F. of 5 & 6 Vict. c. 35.

⁴ As to the certificate of charge, see *post*, p. 135.

⁵ As to the certificate of objection to a supplementary return, see *post*, p. 137.

the General Commissioners, or, in certain cases, by **Chap. I.** other persons. The mode of appointment by the ment by General Commissioners. General Commissioners is as follows:—¹The General Commissioners for the district, before the 10th April in every year, direct their precept to such inhabitants of each ²parish within their district, and to such number of such inhabitants as they think most convenient, to be Assessors for such parish, requiring the persons to whom such precept is addressed to appear before the General Commissioners of the district at such place, and such time, not exceeding ten days after the date of the precept, as the Commissioners appoint. ³Any person to whom such precept is addressed wilfully neglecting, or refusing, to appear before the General Commissioners according to the tenour of the precept, or appearing, but refusing to submit to be appointed Assessor, incurs a penalty of 10%. When the inhabitants who have been summoned appear

¹ 43 & 44 Vict. c. 19, s. 42.

² By the Revenue Act, 1884 (47 & 48 Vict. c. 62), s. 6, the parish for purposes of income tax is made coterminous with the parish for purposes of poor law administration. And if, in the opinion of the Board, any parish is so large that it ought to be divided into districts, with separate Assessors and Collectors, this may be done by the Board with the sanction of the Treasury; and the Board may again, with the like sanction, alter, or annul, such division. After any such division, and whilst it continues, each district of the divided parish is treated as a parish in itself for purposes of income tax.

³ 43 & 44 Vict. c. 19, s. 46.

Chap. I. before the General Commissioners, the latter appoint such of them as they think proper to be Assessors for the parish, and give them instructions how they are to make their ¹certificates and assessments. ²Any person appointed an Assessor by the General Commissioners who wilfully neglects, or refuses, to perform his duty as Assessor, or to charge and assess himself and all other persons chargeable, or to make his assessment according to law, incurs a penalty of 20%. ³The appointment is for the year commencing on the 6th April in each year, and continues until other Assessors are appointed for the same parish. Where an Assessor is continued in office beyond the year for which he is appointed, notice thereof is given him by the General Commissioners, or by the Surveyor; and by such notice the Assessor may be required to attend on a day, and at a place, named in the notice, then and there to receive, and take charge of, all notices and papers to be delivered to him for the due execution of his office. In a parish where two able and sufficient inhabitants cannot be found, the General Commissioners for the district in which the parish is situate nominate and appoint fit persons, residing near such parish, to be Assessors for the parish. If a failure happens in the appointment of an Assessor for any parish, whereby the assessment of the duties

Period for
which
appoint-
ment
made.

¹ As to certificates and assessments of Assessors, see *post*, Chap. III.

² 43 & 44 Vict. c. 19, s. 46.

³ 43 & 44 Vict. c. 19, s. 42.

of income tax is likely to be delayed, the magistrates or justices of the peace having jurisdiction in or over such parish, or any two of them, on notice of such default given them by the Surveyor, appoint an Assessor, observing the rules and regulations prescribed for the appointment of Assessors by General Commissioners. ¹Any person appointed an Assessor by the magistrates or justices who wilfully neglects, or refuses, to take upon himself the office, or to perform his duty as Assessor, or to charge and assess himself and all other persons chargeable, or to make his assessment according to law, incurs a penalty of 50%. ²In any parish where Assessors are not duly appointed, or being appointed do not take upon themselves the office within the time limited, or where the Assessors for any former year upon whom the duty of Assessors devolves do not take upon themselves the office of Assessors at or before the time limited, the Surveyor of the district in which the parish is situate may execute the duty of Assessor for such parish until Assessors are appointed and take upon themselves the office. In the Metropolis, as defined by the ³Valuation (Metropolis) Act, Chap. I.
—
Penalty for declining office.

Where in any parish Assessors are not duly appointed, or do not assume office.

Appointment of Assessors

¹ 43 & 44 Vict. c. 19, s. 46.

² 43 & 44 Vict. c. 19, s. 43.

³ 32 & 33 Vict. c. 67. The term "Metropolis," as used in this Act, means (sects. 3 and 4) unions, and parishes not in union, which are for the time being either wholly, or for the greater part in value thereof, respectively situate within the jurisdiction of the Metropolitan Board of Works, appointed under the Metropolitan Management Act, 1855 (18 & 19 Vict. c. 120). The jurisdiction of the Metropolitan Board of Works extends over the Metropolis, as defined by sect. 250

Chap. I. 1869, the General Commissioners do not appoint
in "the
metro-
polis." Assessors, but the Surveyors acting therein are the

of the last-mentioned Act; that is to say, the City of London and the following parishes and places:—

St. Marylebone.
St. Pancras.
Lambeth.
St. George, Hanover-square,
St. Mary, Islington.
St. Leonard, Shoreditch.
Paddington.
St. Matthew, Bethnal Green.
St. Mary, Newington, Surrey.
Camberwell.
St. James, Westminster.
St. James, } Clerkenwell.
St. John, }
Chelsea.
St. Mary Abbott, Kensington.
St. Luke, Middlesex.
St. George-the-Martyr, South-
wark.
Bermondsey.
St. George-in-the-East.
St. Martin-in-the-Fields.
Mile End Old Town, Hamlet of.
Woolwich.
Rotherhithe.
St. John, Hampstead.
St. Mary, Whitechapel.
Christchurch, Spitalfields.
St. Botolph Without, Aldgate,
Middlesex.
Holy Trinity, Minorities.
St. Katherine, Precinct of.
Mile End New Town, Hamlet of.
Norton Folgate, Liberty of.
Old Artillery Ground.
Tower, District of.
St. Margaret, } Westminster.
St. John, }
St. Paul, Deptford (including
Hatcham).
St. Nicholas, Deptford.
Greenwich.
Clapham.
Tooting Graveney.
Streatham.

*St. Mary, Battersea (excluding
Penge).
Wandsworth.
Putney (including Roehamp-
ton).
Hackney.
St. Mary, Stoke Newington.
St. Giles-in-the-Fields.
St. George's, Bloomsbury.
St. Andrew, Holborn-above-
Bars.
St. George-the-Martyr.
St. Sepulchre, Middlesex.
Saffron Hill, Hatton Garden,
Ely-rents and Ely-place.
Glasshouse Yard, The Liberty
of.
St. Anne, Soho.
St. Paul, Covent Garden.
St. John the Baptist.
Savoy, or Precinct of the Savoy.
St. Mary-le-Strand.
St. Clement Danes.
Liberty of the Rolls.
St. Peter and St. Paul, Ham-
mersmith.
Fulham.
St. Anne, Limehouse.
St. John, Wapping.
St. Paul, Shadwell.
Ratcliff, Hamlet of.
All Saints', Poplar.
St. Mary, Stratford-le-Bow.
St. Leonard, Bromley.
Christchurch.
St. Saviour's (including the
Liberty of the Clink).
Charlton-next-Woolwich.
Plumstead.
Eltham.
Lee.
Kidbrooke.
Lewisham (including Sydenham
Chapelry).

Assessors, for the ¹duties of income tax under Schedules A. and B., upon any property in the Metropolis. Chap. I.

²No person inhabiting any city, borough, or town corporate, can be compelled to be an Assessor for a place outside the limits of such city, borough, or town. No inhabitant of any city, &c. can be compelled to be Assessor for a place outside.

³Every person appointed an Assessor is required on his appointment, and before he acts, to make the prescribed declaration; and, ⁴if he neglects, or refuses to do so, he incurs, if the neglect or refusal follows upon a precept addressed to him by the General Commissioners, a penalty of 10*l.*; if it occurs after appointment by the General Commissioners, a penalty of 20*l.*; and if after appointment by the magistrates or justices, a penalty of 50*l.* Declaration to be made by Assessors.

⁵The remuneration of Assessors is prescribed in the first schedule to the ⁶Taxes Management Act, 1880. The foregoing are the general provisions relating to the appointment of Assessors, but special provision for the exercise of the duties of Assessor is sometimes made in the Remuneration of Assessors.
Special provisions for exercise of duties of Assessors

*Penge, Hamlet of.
St. Olave.
St. Thomas, Southwark.
St. John, Horsleydown.
The Close of the Collegiate Church of St. Peter.
The Charterhouse.

Inner Temple.
Middle Temple.
Lincoln's Inn.
Gray's Inn.
Staple Inn.
Furnival's Inn.

¹ As to these duties, see *post*, pp. 44—74.

² 43 & 44 Vict. c. 19, s. 44.

³ 43 & 44 Vict. c. 19, s. 45. The declaration is given in the section referred to.

⁴ 43 & 44 Vict. c. 19, s. 46.

⁵ 43 & 44 Vict. c. 19, s. 47. But see also 48 & 49 Vict. c. 51, s. 25.

⁶ 43 & 44 Vict. c. 19.

Chap. I. Act granting the duties of income tax for the year.

may be
made by
the In-
come Tax
Act for
the year.

Appoint-
ment of
Collectors.

Nomina-
tion.

Collectors.—Collectors are appointed by the Land Tax, and General, Commissioners for each ¹parish or group of parishes. (²A group of parishes is formed by the Land Tax Commissioners for the district in which the group is situate, with the consent of the Board, for purposes of collection; and, when the group is formed, it is regarded as one parish for the purposes of collection, but for such purposes only. Where parishes have been grouped, and the grouping proves inconvenient, the Land Tax Commissioners may, with the consent of the Board, dissolve the grouping, either as regards all, or some, or one, of the parishes so grouped.) The mode of appointment of Collectors by the Land Tax and General Commissioners is as follows. ³The Land Tax Commissioners and the General Commissioners for a district, in the month of April in each year, nominate one or more able and sufficient person or persons, resident within each parish, or group of parishes, within the district,

¹ As to the income tax parish being coterminous with the poor law parish, and as to the powers of dividing parishes into districts, with separate Assessors and Collectors, see p. 27, note ², *ante*.

² 43 & 44 Vict. c. 19, s. 72. The powers of "grouping" given to the Board must now be exercised consistently with the provisions of s. 6 of the Revenue Act, 1884 (47 & 48 Vict. c. 62).

³ 43 & 44 Vict. c. 19, s. 73.

to the office of Collector of Taxes for such parish, or group of parishes. The fact of the nomination of a person to be Collector must be notified to him, personally, or by a registered letter sent through the general post. Acceptance of the office is not compulsory, but, if the person appointed is unwilling to take the office upon himself, he must within fourteen days after the notification to him of his nomination, either personally or by registered letter addressed to the Clerk to the Commissioners, signify his refusal to accept the office. If he does not give such notice, and fails, when required by the Commissioners, to attend a meeting for the purpose of receiving his appointment and warrant as a Collector, he incurs a penalty of 20%. On the expiration of the time limited for declining the office, viz., fourteen days from the date of the notification to the person nominated of his nomination as Collector—the Commissioners proceed to appoint such person or persons as they think fit, who has, or have, been nominated, and not declined the appointment, to be Collector or Collectors for the parish, or group of parishes, for which he or they have been nominated. The fact of the appointment of a person to be Collector must be notified to him, personally, or by registered letter sent through the general post. In any case in which a person nominated as Collector for any parish, or group of parishes, declines office, the Commissioners may nominate some other able and sufficient person to the office. In the event of there being no able

Chap. I.

Acceptance of office not compulsory. Notice must be given if office declined.

Collector's warrant.

Appointment.

Notification of appointment.

Where a person nominated declines office.

If there is no suffi-

Chap. I. and sufficient person within any parish or group of parishes, the Commissioners may nominate an able and sufficient person resident in a neighbouring parish, or group of parishes. If the Collector for any parish has not been appointed by the 31st May in any year, the power of appointing a Collector for such parish for that and every subsequent year vests in the Board, and the Board must appoint a Collector accordingly. In the event of the death of a Collector for any parish, or group of parishes, in the course of any year, or before his accounts for such year have been closed, the Board, or the Land Tax, and General, Commissioners, as the case may be, by whom such Collector was appointed, may appoint to the vacant office such person or persons willing to act, as they may think fit. If a vacancy occurring by the death of a Collector is not filled within forty days from the date of death by the Land Tax, and General, Commissioners, where the appointment has to be made by them, the power of filling such vacancy for such year vests in the Board. ¹The Board may, whenever they think fit, give notice to the Land Tax, and General, Commissioners that they require all, or any, of the persons nominated or appointed Collectors for any parish, or group of parishes, or division, specified in the notice to give security to the satisfaction of the Board for the due collecting, accounting for, and paying over, of the moneys

cient person within any parish or group.

If Collector for any parish has not been appointed by 31st May in any year.

If a Collector dies in the course of the year.

If vacancy occurring by death not filled within forty days.

The Board may require security to be given by Collectors.

¹ 43 & 44 Vict. c. 19, s. 74.

collected, or to be collected, by such persons respectively, and for the due performance of their duties as Collectors; and the Board may also cause the like notice to be given to any person who has been appointed Collector. After such notice given by the Board to the Commissioners, they may not appoint any person to be Collector for any parish, group, or division, specified in the notice, unless he has previously given security to the satisfaction of the Board; and in case any person who has been appointed Collector, and to whom such notice is given by the Board fails to give security within the time limited by the notice for that purpose, his nomination, and appointment, and authority, as Collector ceases at the end of that time. ^{If after such notice there is neglect or delay in appointment of Collectors.} If after such notice given by the Board there is neglect, or delay, in the appointment of Collectors who previously have given security to the Crown, or a failure on the part of a person nominated, or appointed, Collector to give such security, the Board may appoint a Collector, or Collectors, for the parish, or group of parishes, or division, in which such neglect, delay, or failure, has occurred. ^{Appointment of Collector by the Board—how made.} The appointment by the Board of a Collector is made by warrant under their hands; and a person appointed Collector by the Board has like power and authority as a person appointed Collector by the Commissioners. ^{Security required by the} The security given on the requirement of the Board is by bond to the Crown, entered into by the Collector

Chap. I.

Board—
how
given.
Land Tax
and Gene-
ral Com-
missioners
may
require
security
to be
given by
Collectors,
and any
two or
more
inhabit-
ants of
any
parish.

Security
given to
Commis-
sioners—
how to be
given.

Bond
given by
Collector

with sureties to be approved by the Board, or as the Board determine, and in such sum as the Board require. ¹The Land Tax, and General, Commissioners may also require Collectors on their appointment to give security to their satisfaction; and any two or more inhabitants of a parish, or group, being respectively charged to the land tax, or income tax, in the assessment for the current year, may, by notice in writing to the respective Commissioners, served personally on, or by registered letter addressed to the Clerk to, the Commissioners, require, that the person whom the Commissioners propose to appoint Collector for the parish, or group, shall give security to the satisfaction of the Commissioners; and after receipt of such notice the Commissioners may not appoint a person who has not given such security. The security to be given to the Commissioners may be by a joint and several bond, with two sureties at the least, to, and in the names of, any two or more Commissioners; and the penal sum in any such bond, must, if so required, be equal to the whole land tax, and moneys, assessed in the parish, or group of parishes, and to be collected by the person whom it is proposed to appoint Collector for such parish or group of parishes, and from whom security is required. ²No bond or security given by a Collector in respect of the collection, accounting for, or re-

¹ 43 & 44 Vict. c. 19, s. 77.

² 43 & 44 Vict. c. 19, s. 78.

mitting, of the land tax, or income tax, duties is **Chap. I.** liable to stamp duty. ¹No parish is answerable for not liable to stamp duty. the acts, neglects, or defaults, of a Collector appointed by the Board, or who gives security to the Crown; No parish answerable for defaults of Collector appointed by the Board or having given security, but otherwise is answerable. nor is a parish liable to be re-assessed for an arrear, or deficiency, of the land tax, or income tax, arising from any default or failure of such Collector; but where the Collector of a parish is not appointed by the Board, or does not give security to the Crown, the parish is answerable for the amount of the land tax, and income tax, and for the same being duly demanded of the persons charged therewith, and for the Collector, or his executors, or administrators, duly paying over the sums received by him to the Collector of Inland Revenue. ²Every Collector before he begins to act in relation to ³the duties in Schedule D. Oath to be taken by Collector. must take the ⁴prescribed oath, which may be administered by a General, or Special, or Additional Commissioner; and every Collector acting in relation to the duties in Schedule D. before he has taken the oath incurs a penalty of 100%. There are ⁵other penalties which Collectors incur by various breaches of rule. ⁶The remuneration of the Collectors is fixed Remuneration of Collectors.

¹ 43 & 44 Vict. c. 19, s. 79.

² 5 & 6 Vict. c. 35, s. 38.

³ As to these duties, see *post*, pp. 78 *et seq.*

⁴ The form of the oath is given in Schedule F. of 5 & 6 Vict. c. 35.

⁵ See 43 & 44 Vict. c. 19, s. 121.

⁶ 43 & 44 Vict. c. 19, s. 80. But see also 48 & 49 Vict. c. 51, s. 25.

Chap. I. by the first schedule of the ¹Taxes Management Act, 1880.

Commissioners and other officers only liable to penalties inflicted by Income Tax Acts.

Limitation of right to sue Commissioners and other officers.

Actions against Commissioners and Officers.—We may mention here the following provisions. In the first place, ²no Commissioner, Clerk, Surveyor, Assessor, or Collector, acting in the execution of the Acts relating to duties of income tax is liable for any act done in execution thereof to any penalty other than such as is inflicted by those Acts respectively. In the second place, ³actions or suits brought against a Commissioner, Surveyor, Collector, Assessor, or other person, for anything done in pursuance of the Acts relating to duties of income tax are subject to the following limitations; viz.:—

(1) Action must be commenced within six months.

(2) Must be laid where cause of complaint arose.

(3) Must not be commenced within one month after notice in writing.

- (1) The action or suit must be commenced within six ⁴months after the act committed, and
- (2) Must be laid in the county or place where the cause of complaint arose.
- (3) No writ, or process, can be sued out for the commencement of any such action or suit until the expiration of one month after notice in writing specifying (a) the cause of action; (b) the name and place of abode of the intended plaintiff, and of his attorney or agent, if any, has been delivered to, or left at the usual place of abode of, the intended

¹ 43 & 44 Vict. c. 19.

² 43 & 44 Vict. c. 19, s. 19.

³ 43 & 44 Vict. c. 19, s. 20.

⁴ Calendar months. 13 & 14 Vict. c. 21, s. 4.

defendant by the attorney or agent of the Chap. I.
intended plaintiff.

On the trial of any such action or suit no evidence may be given of any cause of action other than such as is contained in the notice. The intended defendant to whom any such notice has been delivered may at any time before the expiration of a month after the notice has been delivered to him, or left at his usual place of abode, tender amends to the intended plaintiff, or his attorney or agent; and, if the amends tendered are not accepted, may plead the tender in bar to any action or suit brought against him founded upon such notice. Every action or suit brought against any Collector must be defended by the respective Land Tax Commissioners, or General Commissioners, for the parish, when the Collector has been appointed by them, or has acted under their warrant, or directions; and the costs and charges attending any such action or suit, or any action or suit brought by, or against, the Commissioners, or any Collector appointed by them, for any act done in pursuance of the Acts relating to duties of income tax, are defrayed by an assessment made in a just proportion on the several persons, lands, tenements, and hereditaments liable to be assessed in the parish in, or relating to, which the alleged cause of action has arisen, or for which such Collector has been appointed.

On trial evidence confined to cause of action mentioned in notice.

Defendant may tender amends,

and plead tender if not accepted.

Actions brought against Collectors appointed by General, or Land Tax, Commissioners must be defended by them.

¹All penalties exceeding 20% imposed by virtue of the Recovery of penal-

¹ 43 & 44 Vict. c. 19, s. 21.

Chap. I. Acts relating to duties of income tax, excepting ¹such as are directed to be added to the assessments, are recoverable in the High Court, with full costs of suit, and are sued for (except in Scotland and Ireland) by information in the name of the Attorney-General for England, and, in default of prosecution within twelve months of the penalty being incurred, no penalty is afterwards recoverable in any other manner. Subject to the above restriction as to time, all pecuniary penalties not exceeding 20%, and also such of the penalties exceeding 20% as are directed to be added to the assessments, are recoverable before the Land Tax Commissioners, and General Commissioners, respectively, who must take cognizance of the offence in respect of which a penalty may be imposed by them upon information in writing made to them, and upon a summons to the party assessed to appear before them at such time and place as they fix. The Commissioners examine into the matter of fact, and ²hear,

ties ex-
ceeding
20%. im-
posed by
Income
Tax Acts
by action.

Recovery
of penal-
ties di-
rected to
be added
to assess-
ments, and
penalties
not ex-
ceeding
20%.

¹ Sect. 185 of 5 & 6 Vict. c. 35, enacts as follows:—
“Wherever by this Act any increased rate of duty is imposed as a penalty, or as part of, or in addition to, any penalty, every such penalty and all such increased rate of duty may be added to the assessment, and be collected and levied in like manner as any duties included in such assessments may be collected and levied.”

² The provisions of the Taxes Management Act, 1880 (43 & 44 Vict. c. 19), s. 57, that no barrister, solicitor, or person practising the law, shall be allowed to plead before the General Commissioners on an appeal (see *post*, p. 217), does not apply to proceedings for penalties under the Acts relating to income tax before the General Commissioners. Bourdin's Land Tax, 3rd ed. by Bunbury, p. 41, note (f).

and determine, the same in a summary way; and on proof made thereof, either by voluntary confession of the party assessed, or by the oath, or solemn affirmation, of one or more credible witness or witnesses, or otherwise as the case may require, give judgment for the penalty, or for such part thereof as they think proper to mitigate the same to, and assess the penalty on the party by way of supplementary assessment. The penalty so assessed is levied in like ¹manner as the duties. The adjudication of the Commissioners is final and conclusive, and there is no appeal from it. The Board, however, may at their discretion mitigate, or stay, or compound, proceedings for any penalty recoverable in the High Court; and may reward any informer who may assist in the recovery of any such penalty. ²All constables, and other peace officers, are required to aid in the execution of the Acts relating to duties of income tax, and to obey and execute such precepts, and warrants, as are directed to them in that behalf by the respective Commissioners. ³If any person wilfully obstructs a Surveyor, Assessor, or Collector in the execution of his office, he incurs a penalty of 50%.

Penalty
for ob-
structing
a Sur-
veyor, &c.

Exemption from Stamp Duty.—⁴Receipts, certificates of payment, affidavits, appraisements, and

¹ As to the manner of levying the duties, see *post*, Chap. III.

² 43 & 44 Vict. c. 19, s. 22.

³ 43 & 44 Vict. c. 19, s. 23.

⁴ 5 & 6 Vict. c. 35, s. 179.

Chap. I. valuations, made, or given, in pursuance of, and for the purposes of the Income Tax Act, 1842 (5 & 6 Vict. c. 35), are exempt from stamp duty, as are also ¹all affidavits and declarations made upon a requisition of the Commissioners of any public Board of Revenue, or of any of the officers acting under any such Board, and all affidavits, and declarations, required by law, and made before any justice of the peace, and all receipts given for, or upon the payment of, any parliamentary taxes or duties.

¹ 33 & 34 Vict. c. 97, Sched. 1.

CHAPTER II.

WHAT IS SUBJECT TO INCOME TAX—THE SCHEDULES.

Upon what the Duty is charged.—Speaking generally, we may say, that ¹everything in the nature of property, which produces, or is capable of producing, or itself consists in, an annual income or revenue, is the subject of the taxation we are considering, if either the property is situate, or the income enjoyed, in the United Kingdom. The titles of the ²Income Tax Acts, 1842 and 1853, as well as of the various Acts which have from time to time continued, and modified, their provisions, speak of duties on *profits*, arising from property, professions, trades, and offices. It is not, however, as we shall see, in all cases necessary that a profit shall actually be made out of property in order that its owner may become liable to the duty.

¹ In the case of *Attorney-General v. Black* (*post*, pp. 83, 84), Martin, B., speaking of the five schedules, and of sect. 100 of the Income Tax Act, 1842, as a net large enough to include every description of property, said, "In fact, the care displayed in embracing every possible source of profit is, I may say, carried to an almost ludicrous extent; it is practically impossible to escape the operation of the Act."

² 5 & 6 Vict. c. 35, and 16 & 17 Vict. c. 34.

Chap. II. *The Schedules.*—For purposes of classification and distinction, and of applying the provisions of the various Acts relating to the income tax, the several kinds of property, in respect of which the duty is granted, are arranged in “schedules;” each schedule being marked by one of the five letters of the alphabet, A., B., C., D. and E., and each containing a description of one kind, or class, of property. Rules are given for ascertaining, charging, and levying, the duties with reference to each kind, or class, of property; but, ¹so far as they are applicable, and not inconsistent with special provisions, they are applicable to the duties in all the schedules.

SECTION I. SCHEDULE A.

Property in Land, &c.—²Under Schedule A. the duty is charged “for and in respect of the property in all lands, tenements, hereditaments, and heritages in the United Kingdom, for every ³twenty shillings of the annual value thereof.” The word “property,” we may remark, is used in two senses in the ⁴Income Tax Acts of 1842 and 1853. Sometimes it is used as it is colloquially, and as we have used it above; for instance, after enumerating the subjects of the duties,

¹ 5 & 6 Vict. c. 35, s. 188.

² 16 & 17 Vict. c. 34, s. 2.

³ Fractional parts of 20s. are also charged with duty by sect. 3 of the Act, 16 & 17 Vict. c. 34; but no duty is to be charged of a lower denomination than 1d.

⁴ 5 & 6 Vict. c. 35, and 16 & 17 Vict. c. 34.

the Act of 1853 goes on to say, that they are granted Chap. II.
 “in respect of the annual profits or gains arising from
 any kind of *property* whatever;” but in Schedule A.
 the word is used to designate the interest in land
 of the *owner*, as distinguished from that of the
occupier. The duty charged under Schedule A. is,
 therefore, a duty which is imposed upon, and has
 ultimately to be paid by, the owner, and not the
 occupier, of land. We say “ultimately” because, as
 will be seen ¹by-and-bye, it is generally paid in the
 first instance by the occupier, who deducts what he
 has so paid from the rent he pays to his landlord. A
 very common name for this duty is “Landlord’s
 Property Tax.”

The generality of the words used in describing
 the extent of the application of the general
 rule by which the annual value of property
 chargeable under Schedule A. is determined (see
post, p. 47, “*Extent of application, &c.*”) is not
 sufficient to destroy the prerogative of the
 Crown which exempts from taxation property
 occupied for it. A Scotch case, *Clerk v. Com-*
missioners of Supply for Dumfries (17 Sco. L. R.
 774), had decided that police stations, acquired
 for the purpose of local government, owned and
 occupied by the county authorities, were charge-
 able with income tax. But in *Coomber v. Jus-*
tices of Berks (L. R. 9 App. 34; 53 L. J. Q. B.

Cases of
Coomber v.
Justices of
Berks :
Clerk v.
Commis-
sioners of
Supply for
Dumfries.

¹ See *post*, pp. 125, 140.

Chap. II.

239 ; 50 L. T. 405 ; 32 W. R. 525), the House of Lords decided that buildings containing Assize Courts, the necessary rooms and offices, and a police station, erected by the justices of a county acting under statutory powers, the buildings in question being erected out of the county rate, and used for purposes of police, that is, for the discharge of functions which of common right belong to the Crown, were exempted from income tax by virtue of the prerogative of property occupied by the Crown. The case of *Clerk v. Commissioners of Supply for Dumfries*, was cited, and disapproved of. It is to be observed that the special case which came before the House of Lords showed that as a matter of fact no profit whatever had been made out of the buildings: whether a surplus revenue could be, or ought to have been, raised by letting the Assize Courts and rooms in the buildings when not in use, was a question of fact not raised by the case, which the House of Lords, having only to decide questions of law raised by the case, expressly abstained from considering.

Annual Value under Schedule A.—It will have been observed, that the duty under Schedule A. is charged “for every twenty shillings of the *annual value*.” Rules are given for ascertaining the annual value of the lands, tenements, hereditaments, and heritages mentioned in Schedule A.

General Rule for ascertaining Annual Value under Chap. II.

Schedule A.—First of all, we have a general rule which meets the common case of lands, &c. in the occupation of the owner, or of some one to whom he has let them. We have said already, that the duty under Schedule A. is payable in the first instance by the occupier, whether he be owner or tenant, and this general rule, therefore, meets all cases in which the lands, &c. are “in the occupation of the party to be charged,” except those ¹presently enumerated, for which special rules are given. The general rule is as follows:—²“The annual value of lands, tenements, hereditaments, or heritages, charged under Schedule A. shall be understood to be the rent by the year at which the same are let at rack-rent, if the amount of such rent shall have been fixed by agreement commencing within the period of seven years preceding the fifth day of April next before the time of making the assessment: but if the same are not so let at rack-rent, then the rack-rent at which the same are worth to be let by the year.”

Extent of Application of the foregoing General Rule.

—The foregoing general rule extends to ³“all lands, tenements, and hereditaments or heritages, capable of actual occupation, of whatever nature, and for whatever purpose occupied or enjoyed, and of what-

¹ See *post*, pp. 49 *et seq.*

² 5 & 6 Vict. c. 35, s. 60, No. 1.

³ *Ibid.*

Chap. II. ever value," except those 'presently enumerated.

But it is in some degree qualified by the following provisions:—

Case of
tenant's
rates and
taxes paid
by land-
lord.

1.² If an owner of land, &c., whether he is also the occupier or not, pays rates and taxes, which are by law a charge upon the occupier, or any composition for tithes, the annual value is to be estimated exclusively of the amount of such rates and taxes, or composition.

Case of
landlord's
rates and
taxes paid
by tenant.

2.³ But if a tenant pays rates and taxes which are by law a charge upon the owner, then the annual value is to be the rent, either actually paid, or that might be obtained, as the case may be, *plus* the amount of such rates and taxes.

Case of
rent de-
pending
on price of
corn, &c.

3.⁴ If the rent reserved depends in whole or in part upon the price of corn or grain, the estimate shall, if possible, be made on the amount payable according to the average prices fixed in the year preceding the year appointed for the payment of the duty, and in the manner by which such rent has usually been ascertained between landlord and tenant.

Case of
rent re-
served in
corn, &c.

4.⁴ If the whole, or a part, of the rent is reserved in corn or grain, the estimate shall, if possible, be made on the average price computed on the quantity of corn or grain to be delivered in the year appointed for payment of the duty. Where such computation

¹ See *post*, pp. 49 *et seq.*

² 5 & 6 Vict. c. 35, s. 63, No. 10, r. 1.

³ *Ibid.*, No. 10, r. 2.

⁴ *Ibid.*, No. 10, r. 3.

cannot be made the estimate may be made on the Chap. II.
annual value ascertained according to the General
Rule.

5.¹ If the amount of rent depends on the actual Case of
rent de-
pending
on actual
produce.
produce, either in respect of the price, or the quantity,
thereof, the estimate shall be made on the amount, or
value, of such produce in the year preceding the year
appointed for payment of the duty, according to the
price fixed, and the quantity produced, for that year,
and in the manner by which such rent has usually
been ascertained between landlord and tenant. If
the price, or the quantity, of produce varies in the
two years, the assessment may be rectified upon
²appeal or surcharge.

Exceptions to the foregoing Rule.—The six cases of
exceptions to the foregoing general rule which follow
agree in this particular, that the profits charged arise
from lands, &c., which are not “in the occupation of
the party to be charged.” They are governed by the
six special rules which follow:—

1.³ Tithes taken in kind.—The annual value is the First case
of ex-
ception :
Tithes in
kind.
average amount for one year of the profits received
within the three preceding years.

¹ 5 & 6 Vict. c. 35, s. 63, No. 10, r. 4.

² As to appeals, see *post*, pp. 215—219 ; as to surcharges,
see *post*, p. 136.

³ 5 & 6 Vict. c. 35, s. 60, No. 2, r. 1. But the duty upon
tithes may be charged upon the occupier of the lands out of
which the tithes arise. See No. 4, r. 4.

- Chap. II.** 2.¹ Ecclesiastical dues: that is, "all dues and money payments in right of the Church, or by endowment, or in lieu of tithes (not being tithes arising from lands)." The annual value is estimated by the same rule as is employed in the case of tithes taken in kind.
- Second case of exception: Ecclesiastical dues.** 3.² Compositions, rents, and money payments, in lieu of tithes, other than rent-charges comprised under the Act passed for the commutation of tithes. The annual value is the amount of such composition, rent, or payment, for one year preceding.³ Where the owner pays any parochial rates or taxes charged on any such composition, rent, or money payment, the amount so paid by him is to be deducted from the annual value.
- Fourth case of exception: Manors and other royalties.** 4.⁴ Manors and other royalties. — The annual value is the average amount for one year of the profits received within the seven preceding years. The profits referred to in this rule include all dues, and services, and other casual profits, but not rents, or other annual payments.
- Fifth case of exception: Fines.** 5.⁵ Fines upon demise of lands or tenements. — The annual value is the amount received within the

¹ 5 & 6 Vict. c. 35, s. 60, No. 2, r. 2.

² *Ibid.*, No. 2, r. 3.

³ *Ibid.*, No. 10, r. 1. A deduction in respect of parochial rates and taxes may also be made in the case of a rent-charge comprised under the Act passed for the commutation of tithes. See *post*, p. 63.

⁴ 5 & 6 Vict. c. 35, s. 60, No. 2, r. 4.

⁵ *Ibid.*, No. 2, r. 5.

year preceding. If the person chargeable proves to the satisfaction of the General Commissioners of the district that such fines, or any part thereof, have been applied as productive capital, on which a profit has arisen, or will arise, otherwise chargeable to income tax for the year in which the assessment is made, the General Commissioners may discharge the amount so applied from the profits liable to assessment under this rule. Chap. II.

6.¹ Other profits of the same kind : that is, profits that arise from lands, &c., not in the occupation of the party to be charged, and not before enumerated. The annual value is the average amount for one year of the profits received within such a number of years preceding as the Commissioners judge proper. Sixth case of exception: Other profits of same kind.

²In all cases to which the special rules above stated apply, if the possession, or interest, of the party to be charged has commenced within the time for which the average by which the annual value is to be estimated is directed to be taken, then the profits of one year are to be estimated in proportion to the profits received within the time which has elapsed since the commencement of the possession, or interest, of the party to be charged.

Further Exceptions to the foregoing General Rule.—
In the cases of the “lands, tenements, hereditaments, or heritages,” enumerated below, the foregoing general

¹ 5 & 6 Vict. c. 35, s. 60, No. 2, r. 6.

² *Ibid.*, No. 4, r. 6.

Chap. II. rule is replaced by the special rules which follow,¹ and by the ²rules prescribed by Schedule D., which apply so far as they are not inconsistent with these special rules:—

First
special
rule:
Quarries.

1.³ Quarries of stone, slate, limestone, or chalk. The annual value is the average amount for one year of the profits received in the preceding year.

Case of
Jones v.
Cwmorthen Slate
Co.

The statute is imposing a tax upon that which is worked, not upon the mode of working it. Works for getting slate, although carried on underground, and so that they would ordinarily be described as a mine, rather than as a quarry, are, nevertheless, within the expression “quarries,” as it is here used. *Jones v. Cwmorthen Slate Co.*, L. R., 5 Ex. D. 93; 49 L. J., Ex. 210; 41 L. T. 575; 28 W. R. 237. As to the intention with which the words “quarries” and “mines” (see below) are used in the Act, and the reason for the difference of treatment established between the two concerns, Brett, L.J., in this case said: “I

Reason
for differ-
ence of
treatment
between

¹ 5 & 6 Vict. c. 35, s. 60, No. 3; 29 & 30 Vict. c. 36, s. 8. The effect of this latter enactment is not to transfer cases in Schedule A. (No. 3) to Schedule D., so as to change the respective times for which the profits are to be assessed. But mines, for instance, are, by this enactment, to be charged and assessed according to the rules prescribed by Schedule D. so far as those rules are consistent with No. 3 of Schedule A. *Coltress Iron Co. v. Black*, L. R., 6 App. 315; 51 L. J., Q. B. 626; 45 L. T. 145; 29 W. R. 717. Railway Companies, however, now pay income tax under Schedule D., *post*, p. 57, note ⁴.

² As to these rules, see *post*, Chap. II., sect. 4.

³ 5 & 6 Vict. c. 35, s. 60, No. 3, r. 1.

apprehend, that the true intent of using the words **Chap. II.** 'quarries' and 'mines' is only to fix the place at which the tax is to be imposed, or, in other words, the persons upon whom the tax is to be imposed; that is to say, those who are obtaining the profits of certain produce are to be taxed in one way, and those who are obtaining the profits of certain other produce are to be taxed in another way; and I should think myself that the reason of the difference of average is on account of the mercantile difference between the sales of the different kinds of produce. It is to be noticed that the tax is upon profits. That implies a sale, and deduction of expenses; and the difference of average probably is to be accounted for in this way, that it is well known that the profits on those matters which are in the *first class* are tolerably uniform; whereas it is equally well known that the profits in the *second class* are exceedingly varying from year to year."

2.¹ Mines of coal, tin, lead, copper, mundie, iron and other mines, except ^{Second special rule:} ^{Mines (except alum mines).} ^{alum} mines. The annual value is the average amount for one year of the profits received in the five preceding years. But, ^{if} any mine has decreased, or is decreasing in annual value, so that the average of five years will not give a fair estimate of its annual value, the Commissioners

¹ 5 & 6 Vict. c. 35, s. 60, No. 3, r. 2.

² As to alum mines, see below.

³ 5 & 6 Vict. c. 35, s. 60, No. 4, r. 5.

Chap. II. may take the actual amount of the profits in the preceding year to be the annual value.

Case of
Jones v.
Cwmor-
then Slate
Co.

The expression "other mines" means mines *ejusdem generis* with those before mentioned. It clearly does not mean *all* other mines, because there is special mention afterwards of "alum mines." *Jones v. Cwmorthen Slate Co.*, L. R., 5 Ex. D. 93; 49 L. J., Ex. 210; 41 L. T. 575; 28 W. R. 237.

Case of
Addie &
Sons v.
Solicitor
of Inland
Revenue.

Addie and Sons, who were coal and iron masters, claimed to deduct from the sum in which they had been assessed a percentage for pit sinking, on the ground that the expenditure which such percentage would represent was part of the annual expenditure necessarily incurred in realising the profits of their trade. It was held that expenditure for pit sinking was an expenditure of capital, and that the deduction claimed could not be allowed. *Addie and Sons v. Solicitor of Inland Revenue*, 12 Sco. L. R. 274. In *Colt-ness Iron Co. v. Black* (L. R., 6 App. 315; 51 L. J., Q. B. 626; 45 L. T. 145; 29 W. R. 717), however, Blackburn, L. J., commenting upon the foregoing case of *Addie and Sons v. Solicitor of Inland Revenue*, said, "I see that in *Addie and Sons v. Solicitor of Inland Revenue*, reliance is placed on the judgment of the Lord President, on the third rule as to concerns under the first case of Schedule D., that no deduction is to be made 'for any sum intended to be employed as

Pit sink-
ing, ex-
penditure
for.

Case of
Coltness
Iron Co.
v. Black.

capital.' But I do not think reliance can be placed on this. If, from the nature of the concerns in No. 3, an allowance ought to be made for capital, then this rule should be rejected as inconsistent with No. 3. If no such deduction should be made, the rule is not required." In *Coltness Iron Co. v. Black*, it was decided, not ¹that a mine owner will not in any case be entitled to an allowance in respect of the cost of sinking a pit, by means of which pit the minerals are gotten, which are the source of profit for the year in which the pit is sunk—a point which was not involved—but that a mine owner cannot write off, and deduct, from the gross earnings of his mine in a particular year, a sum to represent that year's depreciation of all his pits wherever sunk.

Chap. II.

Pit sinking, expenditure for.

The Broughton and Plas Power Coal Company were lessees of certain collieries which they commenced working in October, 1880. By the agreement under which they held the collieries the lease was to commence from the 25th March, 1874, and to continue for forty-two years. The dead rent was to be 1,000*l.* a year for the first three years, 2,000*l.* a year for the next seven years, and 3,000*l.* a year for the residue of the

Case of *Broughton & Plas Power Coal Co. v. Kirkpatrick*.

¹ See, however, what was said by Grove, J., in the case of *Gillatt and Watts v. Colquhoun*, *post*, p. 87, note ³. The case of *Coltness Iron Company v. Black* overruled the case of *Knowles v. M'Adam*, L. R., 3 Ex. D. 23; 47 L. J., Ex. 139; 37 L. T. 795; 26 W. R. 114.

Chap. II.

term, to be repayable out of royalties during the first sixteen years, and afterwards the deficiency in any year was to be recouped out of the excess of any of the next five years. The dead rent and the royalty were actually one and the same payment, and were merged together, the dead rent being a device to secure the lessor against the fluctuations of mining, whereby the lessor received, on account of his share of the profits of the company, not less than a certain annual sum; so that, when the lessor's share of the royalties did not amount to that sum, he received that sum, but, when his share of the royalties exceeded the fixed annual sum, the fixed sum only was paid to him until the company had been reimbursed the excess previously paid to the lessor when his share of the profits did not amount to the fixed sum. For the years 1878, 1879, and 1880, 2,000*l.* each year was assessed to the income tax, as the mine was not working. For the year 1881-1882 the royalties amounted to 3,477*l.* The company claimed that a sum of 1,477*l.* in the assessment for 1881-1882 should be allowed from that assessment, on the ground that it had already borne income tax when it was previously paid to the lessor. It was held, that income tax must be paid upon the 1,477*l.*

¹Income tax had been paid upon that sum, but

¹ That income tax has been already paid upon a particular sum is, therefore, of itself no reason why such sum should not

by the landlord, *not* by the tenant, the company. Chap. II
 The company had paid no income tax, making no profits. When the mine began to be a profitable concern, the company could not deduct past losses, and the fact that they had made a bargain with a third party made no difference. The case of the *Coltress Iron Company v. Black* (*ubi sup.*) was held to be in point, and the present case was distinguished from the case of *Last v. London Assurance Corporation*¹ as it had then been decided by the Court of Appeal (*post*, pp. 96—101). *Broughton and Plas Power Coal Company v. Kirkpatrick*, 14 Q. B. D. 491; 54 L. J., Q. B. 268; 33 W. R. 278.

3. ²Iron works, ³gas works, salt springs, alum Third special rule:
 mines or works, waterworks, streams of water, canals, Iron works, &c.; alum mines, water works, &c.;
 inland navigations, docks, drains, and levels, fishings, &c.;
 rights of markets and fairs, tolls, ⁴railways and
 be charged, unless the previous payment of income tax was made by the person whom it is sought to charge.

¹ The appeal to the House of Lords, which resulted in the reversal of the judgment of the Court of Appeal, had not then been carried through.

² 5 & 6 Vict. c. 35, s. 60, No. 3, r. 3.

³ The gas works intended are gas works in England. Profits derived from gas works on the Continent of Europe or in the Colonies are chargeable under Schedule D. *The Imperial Continental Gas Association v. Nicholson*, 37 L. T., N. S. 717.

⁴ The annual value, profits, or gains of any railway, are charged and assessed by the Special Commissioners. 29 & 30 Vict. c. 36, s. 8, *post*, p. 116. And by sect. 95 of the Taxes Management Act, 1880 (43 & 44 Vict. c. 19), railway companies are to pay income tax under Schedule D.

Chap. II. other ways, bridges, ferries and other concerns of the like nature. The annual value of these concerns is the profits of the year preceding.

fishings,
rights of
market,
&c.; rail-
ways, &c.;
bridges,
&c.

Deduction
for wear
and tear
of ma-
chinery.

In making the assessment upon any of the above-mentioned concerns chargeable by reference to the rules of Schedule D., the Commissioners¹ must allow such deduction as they may think just and reasonable, as representing the diminished value by reason of wear and tear during the year of any machinery or plant, used for the purposes of the concern, and belonging to the person or company by whom the concern is carried on; and where machinery or plant is let to the person or company by whom the concern is carried on, upon such terms, that the person or company is bound to maintain the machinery or plant, and to deliver over the same in good condition at the end of the term of the lease, the machinery or plant is deemed to belong to such person or company.

Case of
*Mersey
Docks and
Harbour
Board v.
Lucas.*

The Mersey Docks and Harbour Board were constituted by Act of Parliament a corporation for the management of the Mersey Dock Estate. Under the Act the surplus revenue of the Board was to be applied in a particular manner for the reduction of debt, and not otherwise. It was held, that this surplus was liable to income tax.
Mersey Docks and Harbour Board v. Lucas, 8

¹ 41 & 42 Vict. c. 15, s. 12. As to claims for repayment of part of the sum assessed by the lessor where the burden of maintaining machinery falls upon him, see *post*, p. 64.

App. 891; 53 L. J., Q. B. 4; 49 L. T. 781; 32 **Chap. II.**
 W. R. 34. *See further, as to concerns of the*
kinds above enumerated, post, Chap. II., sect. 4.

The Glasgow Corporation Water Commis- Case of
Glasgow
Corpora-
tion Water
Works.
 sioners were empowered by Act of Parliament
 to obtain a supply of water for the city of
 Glasgow and its suburbs. They were autho-
 rized to acquire, and had acquired, by purchase,
 the works of certain previously-existing water
 companies. They were required by compulsory
 clauses in their Act to supply water within the
 municipal boundaries of the city of Glasgow,
 and outside those boundaries to the suburbs
 within a prescribed area. They were authorized
 to borrow money by annuities, mortgage, and
 otherwise, which was to be applied in defraying
 the expense of purchasing and acquiring lands
 and other property, and in executing the autho-
 rized works. Householders within the muni-
 cipal boundaries were rated compulsorily under
 the authority of the Act for the water supply,
 whether they took the water supplied or not;
 outside those boundaries only those who took
 the water paid for it. The rates compulsorily
 levied, and the voluntary payments for the
 water supplied were fixed, within certain pre-
 scribed limits of charge, at values sufficient to
 provide a sum to cover all annual expenses, and
 in addition a sum not less than one per cent. on
 the money borrowed to be applied as a sinking

Chap. II.

fund applicable to the redemption of mortgages and annuities. Any surplus there might be in any one year went to reduce the domestic water rate in the next year. It was held that the sum applied towards the formation of the sinking fund, and the balance carried forward to the reduction of the water rate, was not assessable for income tax. *In re Glasgow Corporation Waterworks*, 12 Sco. L. R. 466. The difference between this case and the case of the Brighton Corporation (see *post*, *Attorney-General v. Black*, pp. 83, 84) was that in this case the citizens of Glasgow, through the water corporation as their representatives, assessed themselves for the purpose of obtaining a water supply, not with a view of making any profit by the undertaking; while the Brighton Corporation made a profit out of a tax levied upon the lieges generally, and applied the proceeds of that tax for the benefit of the community which they represented. It should be observed that no attempt was made in the case of the Glasgow Corporation to discriminate between that portion of the revenue which arose from the rates levied within the municipal boundaries—the limits of compulsory supply—and that portion of the revenue which was raised beyond those limits.

Case of
Glasgow
Gas Com-
missioners.

The Glasgow Gas Commissioners were empowered by Act of Parliament to purchase the undertakings of two gas companies previously

authorized by Act of Parliament to supply Glasgow with gas. The price was to be paid by way of annuity to the shareholders in the previously-existing gas companies. The Gas Commissioners were empowered to manufacture and sell gas to the inhabitants of Glasgow and suburbs, and it was provided that a sinking fund should be formed to pay off the expenses incurred in erecting works and setting the concern going. It was held that the Commissioners were liable to assessment in respect of the profits of their gas works; and that their case differed from that of the Waterworks Corporation, inasmuch as they had no authority to levy a rate, and were not bound to apply any profits they might make in reduction of the charge for gas, but might apply it for their own purposes and uses. They had all the attributes of a trading corporation; and it is not necessary that profits should be for the benefit of individuals in order that they may become liable to assessment for income tax. Case of *Glasgow Gas Commissioners*, 13 Sco. L. R. 556. Chap. II.

¹In all cases to which the special rules above stated apply, if the possession, or interest, of the party to be charged has commenced within the time for which the average by which the annual value is to be

¹ 5 & 6 Vict. c. 35, s. 60, No. 4, r. 6.

Chap. II. estimated is directed to be taken, then the profits of one year are to be estimated in proportion to the profits received within the time which has elapsed since the commencement of the possession, or interest, of the party to be charged.

Deductions and Allowances.—It is further necessary, in order to arrive at the annual value of any property chargeable to the duty under Schedule A., to have regard to the deductions and allowances which it is permitted to make. ¹No deductions, except such as are specified, are allowed; and those only if claimed in ²the prescribed manner. ³The deduction or allowance (the two names seem to be used interchangeably) is of a sum equal to the duty at the rate per 20s. in force for the time being upon the sums paid in respect of which the deduction or allowance is granted; and it is not granted if such sums are paid by a tenant. The following are the deductions or allowances which may be granted if claimed:—

1. De-
duction
allowed
for tenths,
&c.

1. ⁴Tenths, &c. The amount of the tenths and first-fruits, duties and fees, on presentations, paid by any ecclesiastical person within the year preceding that in which the assessment is made.

¹ 5 & 6 Vict. c. 35, s. 159. See *post*, p. 106, as to the deduction allowed to a clergyman, or minister of any religious denomination, for expenses incurred in the performance of his duty or function.

² As to the mode of claiming the deduction or allowance, see *post*, Chap. IV., sect. 1.

³ 5 & 6 Vict. c. 35, s. 60, No. 5.

⁴ *Ibid.*, No. 5, first deduction.

2. ¹Procurations, &c. For procurations and synodals **Chap. II.**
paid by ecclesiastical persons, on an average of seven
years preceding that in which the assessment is made.
3. ²Repairs of chancels, &c. The amount expended
in repairs of collegiate churches, and chapels, and
chancels of churches, or of any college or hall in any
of the universities of Great Britain, by any person
bound to repair the same, in the year preceding that
in which the assessment is made.
4. ³Parochial rates on tithe rent-charge. The
amount of parochial rates, taxes, and assessments,
upon any rent-charge confirmed under the Act passed
for the commutation of tithes, paid in the year in
which the assessment is made.
5. ⁴Land tax. The amount of land tax unre-
deemed charged upon any lands, &c.
6. Drainage rates, &c. ⁵The amount charged on
lands, &c., by a public rate or assessment in respect
of draining, fencing, or embanking, the same. ⁶A de-
duction is allowed in respect of the amount expended
by the owner on an average of the twenty-one preced-
ing years in making or repairing sea walls, or other
embankments necessary for the protection of land
against the encroachment or overflowing of the sea,
2. De-
duction
allowed
for pro-
curations,
&c.
3. De-
duction
allowed
for repairs
of chan-
cels, &c.
4. De-
duction
allowed
for paro-
chial rates
on tithe
rent-
charge,
&c.
5. De-
duction
allowed
for land
tax.
6. De-
duction
allowed
for drain-
age, &c.,
sea walls,
&c.
- ¹ 5 & 6 Vict. c. 35, s. 60, No. 5, second deduction; 16 &
17 Vict. c. 34, s. 34.
- ² *Ibid.*, No. 5, third deduction.
- ³ *Ibid.*, No. 5, fourth deduction.
- ⁴ *Ibid.*, No. 5, fifth deduction.
- ⁵ *Ibid.*, No. 5, sixth deduction. This would appear not to
allow a deduction in case of a private drainage act.
- ⁶ 16 & 17 Vict. c. 34, s. 37.

Chap. II. or any tidal river, although the sums expended have not been charged upon such land by any public rate or assessment.

7. Deduction allowed for wear and tear of machinery.

7. Wear and tear of machinery. We have ¹already mentioned the deduction allowed for wear and tear of machinery to the person or company by whom the concern in which the machinery is used is carried on. ²If the machinery or plant is let upon such terms that the burden of maintaining and restoring the same falls upon the lessor, he may claim repayment of so much of the duty charged in respect of the machinery or plant, and deducted by the lessee on payment of rent, as represents the income tax upon such an amount as the Commissioners think just and reasonable as representing the diminished value of the machinery by wear and tear. The mode in which the claim is made will be explained ³later on.

Allowances for certain Public and Charitable Institutions.—The following allowances ⁴are also directed to be made:—

1. Allowance for colleges and halls in universities.

1. Colleges and halls in universities. For the duties charged on any college, or hall, in any of the universities of Great Britain, in respect of the public buildings, and offices, belonging to such college or hall, and not occupied by any individual member thereof, or by any person paying rent for the same;

¹ *Ante*, p. 58.

² 41 & 42 Vict. c. 15, s. 12.

³ See *post*, pp. 205, 206.

⁴ 5 & 6 Vict. c. 35, s. 61, No. 6.

and for the repairs of the public buildings, and offices, **Chap. II.**
of such college or hall; and of the gardens, walks,
and grounds for recreation, repaired and maintained
by the funds of such college or hall.

2. Hospitals, &c. For the duties charged on any hospital, public school, or almshouse, in respect of its public buildings, offices, and premises, not occupied by any officer thereof whose income amounts to, or exceeds, 150*l.*, or by any person paying rent for the same; and for the repairs of such hospital, public school, or almshouse, and offices; and of the gardens, walks, and grounds, repaired and maintained by its funds. 2. Allowance for hospitals, &c.

3. Literary or scientific institutions. For the duties charged on any building the property of any literary or scientific institution, used solely for the purposes of such institution, in which no payment is made for any instruction there afforded; provided that the building is not occupied by any officer of such institution, nor by any person paying rent for the same. 3. Allowance for literary or scientific institutions.

4. Charity lands, &c. For the duties charged on the rents and profits of lands, &c., belonging to any hospital, public school, or almshouse, or vested in trustees for charitable purposes, so far as the same are applied to charitable purposes. 4. Allowance for charity lands, &c.

The mode in which the allowances are claimed and made, will be described ¹later on. ²Like allowances

¹ See *post*, p. 214.

² 5 & 6 Vict. c. 35, s. 149.

Chap. II. are made to the trustees of the British Museum. It must be understood that the properties are assessed, and the duties levied, in the usual way, notwithstanding the allowances made afterwards.

Allowance to Owner of Land when Profits are found to fall short of Assessment.—¹If, at the end of any year of assessment, an owner of land, being also the occupier thereof, and occupying the land for purposes of husbandry only, whether he obtains his living principally from husbandry or not, finds, and satisfies the Commissioners by whom he has been assessed in respect of such land, that his profits and gains arising from the occupation of such land during the said year fall short of the sum upon which the assessment was made, the Commissioners may cause an abatement to be made from the amount of the assessment. If the applicant for relief satisfies the Commissioners that his income from every source for the year of assessment was under 150*l.*, he is entitled to relief as ²a person whose yearly income is less than 150*l.*

Allowance on account of Life Insurance or Purchase of Deferred Annuity.—³Any person who has made

¹ 14 & 15 Vict. c. 12, s. 3; 16 & 17 Vict. c. 34, s. 46; 43 & 44 Vict. c. 20, s. 52. As to the mode in which the allowance is to be claimed, see *post*, pp. 219, 220.

² As to this relief, see *post*, p. 68.

³ 16 & 17 Vict. c. 34, s. 54; 16 & 17 Vict. c. 91, s. 1; 22 & 23 Vict. c. 18, s. 6.

insurance on his own life, or on the life of his wife, Chap. II.
or who has contracted for any deferred annuity on
his own life, or on the life of his wife, in or with any
insurance company existing on the 1st November,
1844, or registered pursuant to the Act 7 & 8 Vict.
c. 110, or ¹under any Act passed in the Session of
Parliament of the 16th and 17th years of her
Majesty, or ²in or with any friendly society legally
established under any Act of Parliament relating to
friendly societies, and ³any person who has contracted
for any deferred annuity on his own life, or on the
life of his wife, with the Commissioners for the
Reduction of the National Debt, and ⁴any person
who under any Act of Parliament is liable to the
payment of an annual sum, or to have an annual
sum deducted from his salary or stipend in order to
secure a deferred annuity to his widow, or a provision
to his children after his death, may, if he has been
assessed to the duty under Schedule A., and has paid
the duty assessed upon him, or if he has been charged
with duty by way of deduction ⁴claim repayment of
such a proportion of the duty paid by him as the
amount of such annual premium, &c. bears to the
whole amount of his profits or gains on which he is

¹ 16 & 17 Vict. c. 34, s. 54.

² 18 & 19 Vict. c. 35, s. 1. The premiums payable in
respect of such insurances must not be made for shorter
periods than three months.

³ 22 & 23 Vict. c. 18, s. 6.

⁴ As to the mode in which the claim is made, see *post*,
pp. 212, 213.

Chap. II. chargeable under all or any of the schedules. ¹But no such allowance may be made in respect of such annual premium beyond one-sixth part of the whole amount of the profits and gains of the claimant.

Exemption in Case of Annual Income being less than 150l., and Allowance in Case of Annual Income being less than 400l.—²A person whose income is less than 150l. a year is exempted from payment of income tax; and a person whose income, though exceeding 150l. a year, is less than 400l. a year, is entitled to an abatement in respect of 120l. of his income. The mode in which the exemption and abatement respectively are claimed and allowed will be described ³later on. ⁴For the purpose of claiming such exemption, the annual value of lands, &c. belonging to, or in the occupation of, any person claiming the exemption is estimated, for the purpose of ascertaining his title to the exemption, according to the rules and directions contained in the Schedules A. and B. respectively; and the income arising from the *occupation* by the claimant of lands, &c. chargeable under Schedule B. is deemed, for the purpose aforesaid, to be equal in England to one-half of the full annual value thereof, estimated according to the said rules and directions; and where the claimant is the

¹ 5 & 6 Vict. c. 35, s. 54.

² 39 & 40 Vict. c. 16, s. 8.

³ See *post*, pp. 206—212.

⁴ 5 & 6 Vict. c. 35, s. 167.

proprietor, as well as the occupier, of any such lands, &c. the amount deemed as aforesaid to be the income arising from the occupation of such lands, &c. is added to the amount of the full annual value thereof; and the aggregate amount is deemed, for the purpose aforesaid, to be the income of the claimant arising from the lands, &c. of which he is the proprietor and occupier as aforesaid. The income arising from any lease of, or composition for, tithes, is deemed, for the purpose aforesaid, to be equal to one-fourth of the full annual value of such tithes estimated in manner aforesaid. Chap. II.

SECTION II.—SCHEDULE B.

Occupation of Land, &c.—Under Schedule B. the duty is charged “for¹ and in respect of the *occupation* of all such lands, tenements, hereditaments, and heritages as aforesaid” (that is, as are comprised in Schedule A.), ²except dwelling-houses, with their offices, not occupied with farms of lands, or tithes, for farming purposes, and except warehouses, or other buildings, occupied for the purpose of carrying on a trade or profession, “for every³ twenty shillings of the annual value thereof.” The duty charged under Schedule B. is a duty which is imposed upon, and

¹ 16 & 17 Vict. c. 34, s. 2. As to the duty charged in respect of land occupied by a dealer in cattle, or by a dealer in, or seller of milk, see *post*, pp. 107, 108.

² 5 & 6 Vict. c. 35, s. 63, No. 7.

³ 16 & 17 Vict. c. 34, s. 2. See p. 44, note ³.

Chap. II. has to be paid by, the *occupier*, and not the *owner* of land.

Case of
Burt v.
Roberts.

A police-officer, compelled by the duties of his office, and the circumstances in which he holds that office, to occupy a house, separate from the police-station, but communicating with the prison yard; the house being liable to be used for purposes connected with the police force as the chief constable of the county may direct; and the police-officer being liable to be removed at any time, is not an "occupier," although the house is for the time being wholly occupied by him, and furnished with his own furniture, and a sum is deducted from his salary by way of rent. *Burt v. Roberts*, L. R., 3 Ex. D. 66.

Annual Value under Schedule B.—The rules for determining the annual value under Schedule B. are generally ¹the same as those employed for determining the annual value under Schedule A.; but the following modifications of those rules, so far as concerns assessments under Schedule B., must be noticed:—

1. Lands subject to tithe rent-charge or tithe free.

1. ²Lands subject to tithe rent-charge and lands tithe free. In all cases where lands are subject to a rent-charge in lieu of tithes under the ³Act passed for the commutation of tithes, and in all other cases

¹ 5 & 6 Vict. c. 35, s. 63, Nos. 9, 10, 11.

² *Ibid.*, No. 7.

³ 6 & 7 Will. IV. c. 71.

where lands in England are not subject to tithe, or **Chap. II.**
to any modus or composition real in lieu thereof,
there shall be deducted out of the duties contained
in Schedule B. a sum not exceeding one-eighth part
thereof.

2. ¹In all cases where lands in England are sub- 2. Lands
ject to a modus or composition real, and not subject subject to
to any tithe, there shall be deducted out of the modus or
duties contained in Schedule B. so much thereof composition
as, together with the like rate on such modus or real.
composition real, shall not exceed one-eighth part of
such duties.

3. ¹In all cases in which lands in England are Lands
subject to a modus or composition real in lieu of subject to
certain specific tithes, and also are subject to certain modus, or
other specific tithes; or where such lands are free of composition
certain specific tithes, and are subject to certain other real,
specific tithes, the annual value of such lands shall, and tithe,
for the purpose of charging the duties under &c.
Schedule B., be estimated at the rack-rent at which
the same would let by the year if wholly free from
tithes, and there shall be deducted therefrom the
amount or value of one-eighth of the said duties,
chargeable on the said estimate.

The occupier of a deer forest in Scotland *Case of*
claimed to be assessed under Schedule B. upon *Sir George*
the ordinary value of the land, part of the rent *Nathaniel*
actually paid, which exceeded this ordinary *Broke*
Middleton,
Bart.

¹ 5 & 6 Vict. c. 35, s. 63, No. 7.

Chap. II.
—

A deer forest is within s. 60 of 5 & 6 Vict. c. 35.

A right of shooting is part of a right of property.

value, being paid for the privilege of shooting deer, which it was argued, was not “a property capable of actual occupation” as required by the Act, and the duty under Schedule B. being, it was said, really chargeable in respect of profits only. But it was held that the claim was not maintainable; that in the case of lands no estimate of profits is required as in the case of trades and professions, but a statutory mode of proving what the profits are is established—*i. e.*, by taking the annual value; that a deer forest is within the meaning of sect. 60; and that the privilege of shooting game let to a tenant is part of a right of property. Case of *Sir George Nathaniel Broke Middleton, Bart.*, 13 Sco. L. R. 378.

Exceptions—Lands occupied as Nurseries or Gardens for the Sale of Produce.—¹The profits arising from lands so occupied are estimated according to the rules contained in Schedule D., which we shall state² presently, and the duty thereon charged at the rate contained in that schedule; and, when the duty has been so ascertained, it is charged under Schedule B., as upon profits arising from the occupa-

¹ 5 & 6 Vict. c. 35, s. 63, No. 8. This enactment includes lands occupied for the growth of hops; but by 16 & 17 Vict. c. 34, s. 39, such lands are to be assessed under Schedule B.

² See *post*, Chap. II., sect. 4.

tion of lands. ¹But lands occupied for the growth of hops are charged wholly under Schedule B. Chap. II.

Deductions and Allowances under Schedule B.—The rules for determining the annual value under Schedule B. being, as we have said, generally the same as those employed for determining the annual value under Schedule A., the deductions and allowances made under that schedule will also be made, so far as they may be applicable, in cases of duties chargeable under Schedule B. The following allowance in the case of duty payable under Schedule B., is, it will be seen, very similar to that allowed in the case of duty chargeable under Schedule A. ²If at the end of any year of assessment any occupier of land, occupying the same for the purposes of husbandry only, not being the owner thereof, who has been assessed in that year under Schedule B. in respect of such land, finds, and satisfies the Commissioners by whom the assessment was made, that his profits and gains arising from the occupation of such land during the said year fell short of the sum upon which the assessment was made, the said Commissioners may ³cause an abatement to be made from

¹ 16 & 17 Vict. c. 34, s. 39.

² 14 & 15 Vict. c. 12, s. 3; 16 & 17 Vict. c. 34, s. 46; 43 & 44 Vict. c. 20, s. 52.

³ As to the mode in which the abatement is made, see *post*, pp. 219, 220, 227.

Chap. II. the amount of the assessment. ¹If the applicant for relief satisfies the Commissioners that his income from every source for the year of assessment was under 150*l.*, he is entitled to relief as a ²person whose yearly income is under 150*l.*

Abatement on Account of Life Insurance or Purchase of Deferred Annuity.—What ³we have said with reference to this abatement, when dealing with the duty under Schedule A., will apply equally to the duty under Schedule B.

*Exemption in Case of Annual Income being less than 150*l.*, and Allowance in Case of Annual Income being less than 400*l.**—The exemptions and abatement we ⁴have mentioned in dealing with the duty under Schedule A. may also be claimed in case of the duty under Schedule B. We have ⁵already incidentally referred to the mode in which, for the purpose of this exemption and abatement, the annual value of the occupation of lands, &c. is estimated. The mode in which the exemption or abatement is claimed and allowed will be described ⁶later on.

¹ 16 & 17 Vict. c. 34, s. 30; 39 & 40 Vict. c. 16, s. 8.

² See below. As to the mode in which the relief is claimed, see *post*, pp. 206—211, 227.

³ *Ante*, pp. 66—68.

⁴ See *ante*, pp. 68, 69.

⁵ *Ibid.*

⁶ See *post*, pp. 206—212.

SECTION III.—SCHEDULE C.

Chap. II.

Interest and Annuities payable out of Public Revenue.

—Under Schedule C. the duty is charged “¹for and in respect of all profits arising from interest, annuities, dividends, and shares of annuities, payable to any person, body politic or corporate, company or society, whether corporate or not corporate, out of any public revenue,” for “²every twenty shillings of the annual amount thereof.” The duty extends to “³all public annuities whatever payable in Great Britain out of any public revenue in Great Britain or elsewhere; and to all dividends, and shares of such annuities, respectively;” ⁴and also to interest payable out of the public revenue, or securities, issued at the exchequer or other public office, by whatever names such securities are called, except in the following cases of exemption, viz.:—

1. ⁵Stock, &c., of friendly societies. The stock, dividends, or interest, of any friendly society legally established under any Act relating to friendly societies,

First case
of ex-
emption:
Stock of
friendly
societies.

¹ 16 & 17 Vict. c. 34, s. 2. See p. 106, *post*, as to the deduction allowed to a clergyman, or minister of any religious denomination, for expenses incurred in the performance of his duty or function.

² Fractional parts of 20s. are also charged with duty by sect. 3 of the Act, 16 & 17 Vict. c. 34; but no duty is charged of a lower denomination than 1d.

³ 5 & 6 Vict. c. 35, s. 88.

⁴ 5 & 6 Vict. c. 35, s. 97.

⁵ 5 & 6 Vict. c. 35, s. 88, first exemption.

Chap. II. not assuring to any individual more than 200%, and not granting any annuity exceeding 30%.

Second case of exemption : Stock of savings banks.

2. ¹Stock, &c., of savings bank. The stock, or dividends, of any savings bank established under the provisions of the Act 9 Geo. 4, c. 92 ("An Act to consolidate and amend the laws relating to savings banks"), arising from investments with the Commissioners for the Reduction of the National Debt; and also the dividends, or interest, payable by the trustees of any savings bank upon any funds therein invested belonging to any depositor, or to any charitable institution.

Third case of exemption : Stock of charitable institutions ;

3. ²Stock, &c., of charitable institutions. The stock or dividends of any corporation, fraternity, or society of persons, or of any trust, established for charitable purposes only, so far as the same are applied to charitable purposes only; and the stock, or dividends, in the names of any trustees applicable solely to the repairs of any cathedral, college, church, or chapel, or any building used solely for the purposes of divine worship, so far as the same are applied to such purposes. ³Stock and dividends, vested in the Trustees of the British Museum, are also exempt from duty; and no salary or payment made out of her Majesty's Exchequer to such trustees is to be charged. But the duties on all salaries of officers or persons

including British Museum.

¹ 5 & 6 Vict. c. 35, s. 88, second exemption.

² *Ibid.*, third exemption.

³ 16 & 17 Vict. c. 34, s. 149.

employed under the said trustees, are to be charged Chap. II.
on the said officers respectively.

4 ¹Stock in the name of the Treasury or of the Commissioners for the Reduction of the National Debt. The stock, or dividends, standing in the names aforesaid.

Fourth case of exemption: Stock in name of Treasury or Commissioners for Reduction of National Debt.

5. ²Stock belonging to her Majesty, or to accredited ministers. The stock, or dividends, belonging to her Majesty; and the stock, or dividends, of any accredited minister of any foreign state resident in Great Britain.

Fifth case of exemption: Stock of her Majesty, or accredited ministers of foreign states.

Allowance on Account of Life Insurance and Purchase of Deferred Annuities.—What we ³have said with reference to this abatement when dealing with the duty under Schedule A. will apply equally to the duty under Schedule C.

Exemption in Case of Annual Income being less than 150l.; and Allowance in Case of Annual Income being less than 400l.—The exemption and abatement we ⁴have mentioned in dealing with the duty under Schedule A. may also be claimed in case of the duty under Schedule C. The mode in which the exemption or abatement is claimed and allowed, will be described ⁵later on.

¹ 5 & 6 Vict. c. 35, s. 88, fourth exemption.

² *Ibid.*, fifth exemption.

³ See *ante*, pp. 66—68.

⁴ See *ante*, pp. 68, 69.

⁵ See *post*, pp. 229, 230.

Chap. II. *Small Dividends to be charged under Schedule D.*—

¹ When the half-yearly payment on any annuities, dividends, and shares of annuities, otherwise chargeable under Schedule C., does not amount to fifty shillings, the same is to be accounted for, and charged under Schedule D.; ² except in the case of dividends attached to stock certificates issued under the National Debt Act, 1870, from which the duty is deducted, although the dividend does not amount to fifty shillings.

SECTION IV.—SCHEDULE D.

Annual Profits and Gains from Property and Professions.—Under Schedule D. the duty is charged ³ “for and in respect of the annual profits, or gains, arising, or accruing, to any person residing in the United Kingdom from any kind of property whatever, whether situate in the United Kingdom or elsewhere; and for and in respect of the annual profits, or gains, arising, or accruing, to any person residing in the United Kingdom from any profession, trade, employment, or vocation, whether the same shall be carried on in the United Kingdom or elsewhere; . . . and for and in respect of the annual profits, or gains, arising, or accruing, to any person whatever, whether a subject of her Majesty or not, although not resident

¹ 5 & 6 Vict. c. 35, s. 95.

² 33 & 34 Vict. c. 71, s. 36.

³ 16 & 17 Vict. c. 34, s. 2.

within the United Kingdom, from any property what- Chap. II.
 ever in the United Kingdom, or any profession, trade,
 employment, or vocation exercised within the United
 Kingdom" for every ¹twenty shillings of the annual
 amount of such profits and gains; and "for and in
 respect of all interest of money, annuities, and other
 annual profits, and gains, not charged by virtue of
 any of the other schedules" for every ¹twenty shil-
 lings of the annual amount thereof.

A man "resides" in Great Britain if he has Case of
 his ordinary residence there, although he is Young.
 absent from that residence for a greater or
 shorter period of each year (Case of *Captain H.*
Young, Master Mariner, 16 Sco. L. R. 682),
 even although he is not in Great Britain for six
 months of the year (Case of *Captain H. Young*,
ubi sup.), or even although he is absent from Case of
 Great Britain the whole year. (*Rogers v. Inland* Rogers v.
Revenue, 16 Sco. L. R. 682.) A merchant Inland
Revenue.
 having a permanent residence, and carrying on Case of
 business, at Leghorn, but having also a resi- Lloyd v.
Sully.
 dence in Scotland which he visited in the
 summer months, always returning to his per-
 manent abode in Italy, was held liable to be
 assessed on the profits of his foreign trade
 brought into Great Britain to meet his expen-
 diture in Scotland, and elsewhere in Great

¹ Fractional parts of 20s. are charged with duty by sect. 3
 of the Act, 16 & 17 Vict. c. 34; but no duty is charged of a
 lower denomination than 1d.

Chap. II.

Place of
residence
of a com-
pany.

Case of
*Calcutta
Jute Mills
Co. v.
Nichol-
son.*

Case of
*Cesena
Sulphur
Co.*

Britain, although the period of his residence in Great Britain had been less than six months in the year. (*Lloyd v. Sully*, unreported.) A joint stock company is charged as a "person." (5 & 6 Vict. c. 35, s. 40.) It "resides" in the place in which it carries on its real trade and business. (*Calcutta Jute Mills Company v. Nicholson*, L. R., 1 Ex. D. 437; 45 L. J., Ex. 821; 35 L. T. 275; 25 W. R. 71.) The place of registration of the company is not conclusive as to its place of "residence," although it is a fact to be taken notice of in connection with all other circumstances in order to determine the place of "residence" of the company. The "*Calcutta Jute Mills Company Limited*" was a company registered in England, having its registered office in England, managed by a board of not less than five directors in England, who appointed a resident director and manager in Calcutta. There were Indian and English shareholders of the company. The whole of the business of the company, the realising, and disposing of, its funds, and the division among the Indian shareholders of the part of the profits due to them, was transacted in India. The company made no profits in England. The company was held liable to assessment upon the whole of its profits, not upon so much only as was divided between the shareholders in England. The case of *The Cesena Sulphur Company Limited* (L. R., 1 Ex.

D. 428; 45 L. J., Ex. 821; 35 L. T. 275; Chap. II. 25 W. R. 74) was similar.

The Imperial Ottoman Bank was a body incorporated according to the law of Turkey by a firman of the Sultan, established as a state bank for the Ottoman Empire, and having its seat in Constantinople. It had an agency in London by which the usual business of bankers was carried on, managed by the London members of a committee, appointed to administer the affairs of the bank by the shareholders. The bank was held to be not resident in the United Kingdom. *Attorney-General v. Alexander and others*, L. R., 10 Ex. 20; 44 L. J., Ex. 3; 31 L. T. 694; 23 W. R. 255.

Messrs. Tischler & Co. were wine growers and wine merchants, carrying on business as Tischler & Co. at Bordeaux, where they resided. Mr. Tischler, the senior partner, was in the habit of spending about four months in every year in England at different times, and dwelt during that period chiefly in London, and then always at the Royal Hotel, Blackfriars. He had no other place of residence in England. When in England he saw customers, and took orders for wine, which was shipped from Bordeaux by his firm, who sent invoices, sometimes to the purchaser direct, and sometimes to Messrs. Feuerheerd & Co., who acted as general agents for Tischler & Co. Feuerheerd & Co. were paid by commission upon the amount of all wines sold either

Case of
*A.-G. v.
Alexander.*

London
agency of
foreign
banking
company.

Case of
*Tischler &
Co. v. Ap-
thorp.*

Chap. II.

through them or by Mr. Tischler when in London. The commission included a guarantee of all debts for wine sold in England. A room was provided for Mr. Tischler in Feuerheerd & Co.'s office, the rent of which was paid by Tischler & Co., who had their own clerk there, and their name painted on the door. Payment for wines ordered was made to Feuerheerd & Co. for Tischler & Co., and Feuerheerd & Co. received invoices, or copies of invoices, of all wines sent by Tischler & Co. from Bordeaux to England. It was held that Tischler & Co. did not "reside" in the United Kingdom, but were liable to income tax as carrying on a trade there. *Tischler & Co. v. Apthorp*, 52 L. T. 814; 33 W. R. 548.

Case of
Erichsen
v. *Last*.

The Great Northern Telegraph Company of Copenhagen was a company "resident" at Copenhagen. It had submarine cables in connection with the United Kingdom, and other submarine cables and foreign telegraph lines not in connection with the United Kingdom. It had also, under an agreement with the Postmaster-General, separate wires between Aberdeen, Newcastle, and London, worked by its own staff in workrooms in Aberdeen, Newcastle, and London. No profits were made by the company from the land lines in the United Kingdom used by them, except so far as the use of these lines enabled the company to make profits by the transmission of messages abroad. It was held

that the company must be assessed on what they received in the United Kingdom for transmission of messages abroad, after deducting sums paid by them for the use of foreign lines. *Erichsen v. Last*, L. R., 8 Q. B. D. 414; 51 L. J., Q. B. 86; 45 L. T. 703; 30 W. R. 301. Chap. II.

In the case of the Imperial Ottoman Bank, mentioned above, it was held that English profits made by the London agency of the bank were liable to assessment. *Gilbertson v. Fergusson*, L. R., 7 Q. B. D. 562; 46 L. T. 10. Case of
Gilbertson
v. Fer-
gusson.
London
agency of
foreign
banking
company.

It was also held, in the case of the Imperial Ottoman Bank (*ubi sup.*), that the English shareholders' share of the profits made in Turkey was liable to assessment: *e.g.*, if the shares had been equally held in England and in Turkey, and the profits made in England and in Turkey had been equal, three-fourths of the profits would have been assessable. English
share-
holders'
share of
profits of
foreign
banking
company.

Under the authority of certain Acts of Parliament a rate was levied on coals landed on the beach of, or in any other way brought or delivered within the limits of the town of, Brighton. The proceeds of the rate were applied to the purchase of land, the extension of the market, the enlargement of streets, the erection of a town hall, and to parochial purposes. The incidence of the tax was upon the importer of the coal, which was sold indiscriminately to persons not inhabitants of Brighton, and to non- Case of
A.-G. v.
Black.

Chap. II.

Case of
*A.-G. v.
Scott.*

rateable inhabitants of Brighton. It was not therefore a tax upon the inhabitants of Brighton, or on those among them who were otherwise rateable. It was held that the rate was a "profit" within Schedule D. *Attorney-General v. Black*, L. R., 6 Exch. 78, 308; 40 L. J. 89, 194; 24 L. T. 370; 25 L. T. 207; 19 W. R. 416, 1114.

The Corporation of the City of London derived a large annual income from profits of markets, corn and fruit metages, brokers' rents, mayor's court, and other, fees, and from other sources. The receipts were carried to a general account, from which was deducted the whole expenditure of the corporation for the civil government of the city, and the balance was returned as the profits of the corporation chargeable under Schedule D. It was held that the profits derived by the corporation from the sources above mentioned were liable to income tax under Schedule D. without reference to the purposes for which they were applied, and that the proper principle upon which the assessment should be made was to take each item, or head, of income separately, and to assess the net produce of such item after deducting from the gross receipts the expenses incurred in earning and collecting the same. *Attorney-General v. Scott, Chamberlain of the City of London*, 28 L. T. 302; 21 W. R. 265.

Case of
*Paddington
Burial*

The Paddington Burial Board, formed in 1853 under the provisions of 15 & 16 Vict. c. 85,

derived their sole income from payments made **Chap. II** in accordance with a scale of charges fixed **Board v. Inland Revenue.** under sect. 34 of that Act. By sect. 22 of the Act any surplus income in any year, after satisfying all liabilities, and providing such a balance as should be deemed by the Board sufficient to meet their probable liabilities during the then next year, was to be paid to the overseers in aid of the poor rate. It was held that the surplus income was profit chargeable with income tax, and that the case differed from that of the Glasgow Corporation Water Commissioners (*ante*, pp. 59, 60), inasmuch as in that case the inhabitants of Glasgow were not carrying on any business at all, and there was no profit made, the ratepayers paying only as much as it cost to supply them with water, neither more nor less; while in this case the burial board carried on the business of undertakers for the benefit of the ratepayers. *Paddington Burial Board v. Inland Revenue Commissioners*, 13 Q. B. D. 9; 53 L. J., Q. B. 224; 50 L. T. 211; 32 W. R. 551.

Classification of Sources from which Annual Profits or Gains chargeable under Schedule D. arise.—The sources from which annual profits or gains chargeable under Schedule D. arise are divided into six classes; and for the case of each of those six classes there are provided special rules for ascertaining the duties payable; some of the rules being common to

Chap. II. more than one of the classes. The classification, and the rules applicable to each class, are as follows:—

First Source.—The first source is ¹every “art, mystery, adventure or concern,” carried on by any “person, body politic, or corporate, fraternity, fellowship, company, or society,” except “such adventures or concerns on or about lands, tenements, hereditaments, or heritages, as are mentioned in Schedule A.” The duty to be charged on annual profits or gains arising from this source is to be computed ²exclusively of the “profits or gains arising from lands, tenements, or hereditaments, occupied for the purpose of any trade, manufacture, adventure, or concern;” and ³on a sum not less than the full amount of the balance of such profits or gains, upon a fair and just average of three years ending on the day of the year immediately preceding the year of assessment on which the accounts of the trade, &c., have been usually made up, or on the 5th day of April preceding the year of assessment. If the trade, &c., has been commenced within such period of three years, the duty is computed on the average of the balance of the profits and gains from the commencement of the trade, &c.; while, if it has been commenced within the year of assessment, the duty is computed according to the

¹ 5 & 6 Vict. c. 35, s. 100, second rule of first case.

² 5 & 6 Vict. c. 35, s. 100, second of rules applying to first and second cases.

³ 5 & 6 Vict. c. 35, s. 100, first rule of first case.

rule applicable in ¹the case of the sixth class. In Chap. II.
 ascertaining the profits ²the value of all doubtful
 debts due or owing to the person charged may be
 estimated; and in the case of the bankruptcy or
 insolvency of a debtor, the amount of the dividend
 which may reasonably be expected to be received on
 the debt due from him, is to be deemed to be the value
 thereof.

First Source—Deductions allowed.—The deductions
 allowed in estimating the balance of profits and
 gains upon which duty is charged under Schedule D.,
 and which arise from the first source, are for the
 most part indicated only by an enumeration of the
 deductions *not* allowed, which are as follows:—

1. ³No sum is to be deducted for repairs of pre-
 mises, or for supply, repairs, or alterations of imple-
 ments, beyond the sum usually expended for such
 purposes according to an average of three years
 preceding the year of assessment.

1. No de-
 duction
 to be
 allowed
 for re-
 pairs of
 premises,
 supply or
 repairs of
 imple-
 ments,
 beyond a
 three
 years'
 average ;

2. ³No sum is to be deducted on account of loss
 not connected with, or arising out of, the trade, &c.,

2. Or on
 account of
 loss un-

¹ See *post*, p. 110.

² 16 & 17 Vict. c. 34, s. 50.

³ 5 & 6 Vict. c. 35, s. 100, third rule of first case. Here
 nothing is contemplated in the way of outlays of money in
 the shape of expenditure of capital for the future benefit of
 the estate, but only what may be called current expenditure.
 Per Grove, J., in *Gillatt and Watts v. Colquhoun*, 33 W. R. 258.

Chap. II. the profits or gains arising from which are the subject of charge.

connected with the trade, &c. ;

3. Or on account of capital withdrawn from the trade, &c. ; 3. ¹No sum is to be deducted on account of any capital withdrawn from such trade, &c.

4. Or for capital employed in the trade, &c. ;

4. ¹No sum is to be deducted for any sum employed as capital in such trade, &c.

5. Or for capital employed in improvement of premises ;

5. ¹No sum is to be deducted on account of any capital employed in improvement of premises occupied for the purposes of such trade, &c.

6. Or for interest which might have been made ;

6. ¹No sum is to be deducted on account of any interest which might have been made on such sum.

7. Or for debts, except bad debts ;

7. ¹No sum is to be deducted for any debts, except bad debts, which must be proved to be such to the satisfaction of the Commissioners.

8. Or for average loss, beyond actual amount ;

8. ¹No sum is to be deducted for any average loss, beyond the actual amount of loss after adjustment.

9. Or for interest, &c. ;

9. ²No sum is to be deducted on account of any annual interest, or any annuity or other annual payment, payable out of profits or gains.

¹ 5 & 6 Vict. c. 35, s. 100, third rule of first case.

² 5 & 6 Vict. c. 35, s. 100, fourth rule of first case.

10. No sum is to be deducted for any sum re- **Chap. II.**
coverable under an insurance or contract of indem-
nity.

10. Or for any sum recoverable under insurance, &c. ;

11. ¹No sum is to be deducted for any disbursements or expenses whatever, not being money wholly and exclusively expended for the purposes of such trade, &c.

11. Or for expenses not being money wholly employed for the purposes of the trade, &c. ;

12. ¹No sum is to be deducted for any expenses of maintenance of the parties, their families, or establishments.

12. Or for expenses of maintenance of the parties ;

13. ¹No sum is to be deducted for the rent or value of any dwelling-house, or domestic offices, or any part thereof respectively, ²except such part thereof as may be used for the purposes of such trade, &c.

13. Or for the rent or value of any dwelling-house not used for purposes of the trade, &c. ;

14. ¹No sum is to be deducted for any expenditure on any other domestic or private purposes distinct from the purposes of such trade, &c.

14. Or for expenditure on private purposes.

But ³the deduction which is allowed in the case of a concern chargeable under Schedule A. with refer- **Deduction allowed for—**

¹ 5 & 6 Vict. c. 35, s. 100, first rule applying to first and second cases.

² See *post*, pp. 91, 92.

³ See *ante*, pp. 58, 64.

Chap. II. **ence** to the rules of Schedule D. for the diminished

1. **Wear
and tear
of ma-
chinery ;**

2. **Life
assurance,
&c.**

3. **Deferred
annuity.**

value by reason of wear and tear of machinery or plant used for the purposes of the concern ¹is allowed also in the case of any trade, &c., chargeable under Schedule D. And any person who has made insurance on his own life, or on the life of his wife, or who has contracted for any deferred annuity on his own life, or on the life of his wife, ²in or with any insurance company existing on the 1st November, 1844, or registered pursuant to the Act 7 & 8 Vict. c. 110, or ³under any Act passed in the session of Parliament of the 16th and 17th years of her Majesty, or ⁴in or with any friendly society legally established under any Act of Parliament relating to friendly societies ; ⁵and any person who has contracted for any deferred annuity on his own life, or on the life of his wife, with the Commissioners for the Reduction of the National Debt ; ⁶and any person who under any Act of Parliament is liable to the payment of an annual sum, or to have an annual sum deducted from his salary or stipend, in order to secure a deferred annuity to his widow, or a provision to his children after his death, may deduct the amount of the annual premium paid by him for such

¹ 41 & 42 Vict. c. 15, s. 12. See the case of *The Caledonian Railway Co. v. Banks*, *post*, pp. 93, 94.

² 16 & 17 Vict. c. 91.

³ 16 & 17 Vict. c. 34, s. 54.

⁴ 18 & 19 Vict. c. 35, s. 1.

⁵ 22 & 23 Vict. c. 18, s. 6.

⁶ 16 & 17 Vict. c. 34, s. 54.

insurance or contract, or the annual sum paid by him or deducted from his salary or stipend as aforesaid, from any profits or gains in respect of which he is liable to be assessed under Schedule D.; and if he has been assessed, and has paid the duty, he may ¹claim repayment. But ²the amount deducted, or repaid, is not to exceed one-sixth part of the whole profits and gains of the person claiming the allowance, and no such deduction entitles any person to claim exemption from duty on ³the ground that his annual profits and gains are thereby reduced below 150%. ⁴And any person carrying on, either solely or in partnership, two or more distinct trades, manufactures, adventures or concerns in the nature of trade, the profits of which are chargeable under the rules of Schedule D., may deduct from, or set against, the profits acquired in one or more of the said concerns the excess of the loss sustained in any other of the said concerns over and above the profits thereof, in the same manner as a loss may be deducted from the profits of the same concern. And in such a case the person or persons carrying on the several concerns may make separate statements in respect of each. And any such person renting a dwelling-house, of which part is used by him for the purposes

Chap. II.
Amount deducted not to exceed one-sixth of profits. No deduction entitles to claim for deduction on account of income being less than 150% a year. Persons carrying on more than one trade may set losses in one against profits in another. And persons renting

¹ As to the mode of claiming and obtaining repayment, see *post*, p. 233, and pp. 212, 213.

² 16 & 17 Vict. c. 34, s. 54.

³ As to this ground of exemption, see *post*, p. 111.

⁴ 5 & 6 Vict. c. 35, s. 101.

Chap. II. of any trade or concern, or any profession, the profits of which are chargeable with duty, may deduct from, or set off against, the profits of such trade, concern, or profession, such a sum not exceeding two-thirds of the rent *bonâ fide* paid by him for such dwelling-house as the Commissioners may on due consideration allow.

dwelling-houses partly occupied for purposes of trade, &c., may deduct a sum not exceeding two-thirds of rent.

Case of the *Birmingham Corporation*.

Corporation of Birmingham not to be considered persons carrying on trades.

The Corporation of Birmingham were assessed in respect of their market hall, fish market, vaults, and meat market, in sums amounting in the aggregate to 6,250*l*. They did not dispute this assessment, but alleged that they suffered losses in respect of the following concerns, viz. : utilisation and disposition of sewage, industrial schools, baths and parks, and that they were entitled, as persons carrying on more concerns than one, to set these losses against the profits arising from the market hall, fish market, vaults, and meat market. The Court, however, decided in favour of the surveyor of taxes, who contended on behalf of the Crown that the corporation could not be considered to be persons carrying on trades or adventures, and that the concerns from which they derived no profits were part of the authorized and legitimate expenditure of the borough, provided for the benefit of the inhabitants, and that the losses incurred in connection with these last-mentioned concerns could not be set against the profits derived from the market hall, fish market, vaults,

and meat market, which were applied in aid of **Chap. II.**
 the rates which the burgesses were called upon
 to pay. *In re Corporation of Birmingham* (un-
 reported).

The Caledonian Railway Company having
 been allowed deduction of all sums actually
 expended by them during the year in repairs
 and renewals of stock, claimed to deduct a sum
 of $4\frac{1}{2}$ per cent. on stock added during the
 preceding five and a-half years, such added
 stock not having been repaired (because until it
 had depreciated to the extent of 25 per cent.
 it would need no repairs, and it would not
 have depreciated to that extent until it had
 been in use five and a-half years), but depre-
 ciating in value at the rate of $4\frac{1}{2}$ per cent. a
 year. It was held that they were not entitled
 to make the deduction; that "diminished
 value" means value for the purpose for which
 the article was intended in a going concern, not
 for purpose of sale; and that the Commissioners
 had decided as a question of fact—from which
 decision there was no appeal—that there had
 been no such diminution of value; that the
 plant in question required no repairs to enable
 it to produce the same amount of income that it
 did at first; and that, in allowing a deduction
 of sums actually expended in repairs and
 renewals, the Commissioners had allowed the
 sum expended in maintaining the whole of the

Case of
*Caledonian
 Rail. Co.
 v. Banks.*

"Dimi-
 nished
 value,"
 meaning
 of.

Chap. II.

Case of
Alexandria
Water Co.
v. Mus-
grave.

company's plant in good working order, which sum might fairly be regarded as making up the whole deterioration which the wear and tear of the year had occasioned. (*Caledonian Railway Company v. Banks*, 18 Sco. L. R. 85.)

The Alexandria Water Company claimed a deduction in respect of interest payable to foreign debenture holders. It was held that the deduction claimed could not be allowed, whether the income paid tax could be recovered from the foreign bondholders or not, being prohibited by section 100, rule 4. *Alexandria Water Company v. Musgrave*, 11 Q. B. D. 174; 52 L. J., Q. B. 349; 49 L. T. 287; 32 W. R. 146.

Case of
Imperial
Fire As-
surance Co.
v. Wilson.

"Un-
earned
pre-
miums"
of fire
insurance
company.

The directors of a fire insurance company claimed to make a deduction for "unearned premiums," or premiums the period of accruing of which was unexpired. They argued that, inasmuch as insurances were effected at all periods of the year, and the company's liabilities under the policies upon which those premiums were paid did not expire with the expiration of each year, the gross amount of premiums paid to the company in any one year ought not to be credited to them as profits actually realized in that year; that, in estimating their annual profits, the company were entitled to deduct from the gross amount of the premiums paid to them within the year 33 per cent., in order to

make fair allowance for the premiums so un-earned at the expiration of the year, and to enter such percentage amongst the profits realized in the succeeding year; that, in estimating their annual profits the company were entitled to deduct from the gross amount of premiums paid to them within the year, such a sum as it would cost to re-insure the premiums which had not been exhausted during the year. It was held that the company were not entitled to make the deduction claimed. The Court recognized the impossibility of doing complete justice between the Crown and the company; but said the injustice upon the company was in fact confined to the first year, when they commenced business; for, as they went on year by year, the charge upon them, under the mode of assessment appealed against, would, taking the average, be right; and in the last year of the business sect. 134 of 5 & 6 Vict. c. 35 (see *post*, p. 111), afforded a means of remedying any overcharge. The 33 per cent. was an arbitrary figure. Huddleston, B., suggested that the company might have adopted another mode of keeping their accounts, viz.: by ascertaining what amount of each premium was applicable to the year current at the time of payment, and what to the succeeding year, and then have carried out a figure which would really represent the amount applicable to the risks of the last-named year.

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Case of
Last v.
London
Assurance
Corpora-
tion.

Imperial Fire Assurance Company v. Wilson, 35 L. T. 271.

An insurance company carried on the business of marine, fire, and life, insurance. Its profits were derived from the following sources :—

(1) Interest on paid up capital and reserve fund ; (2) profit on marine business ; (3) profit on fire business ; (4) profit on life business. As regarded the profits derived from the first source no question arose, inasmuch as income tax was levied and paid by deduction from the interest, and dividends, of the investments of the funds. These profits were therefore not included in the return made by the company. As regarded the other three sources of profit, the company contended that the results of the three branches of their business should be thrown into one general account, and that if, and so far as, the total sum on which they paid income tax in respect of their investments exceeded the sum total of the profits they made, they were not liable to be assessed under Schedule D. The Surveyor contended that, assuming the company to be right in their contention, that the three branches of their business should be brought into one account, the assessable profit of the life branch was not to be determined merely by the amount of profit available for division among the shareholders, but must be found by the third rule of the first case of Schedule D., and that, over and above

the profit so appropriated to the shareholders, the accounts of the company showed (1) sums paid to policy-holders in the shape of bonuses, which was a distribution of assessable income or revenue; (2) additions made to the life fund, which was a transfer of income to capital. That, to arrive at the net balance of profit chargeable for the life branch under the above rule, account must be taken, on the one hand, of the life premiums received during the last three years, and on the other nothing must be allowed in the way of deduction beyond the claims actually paid under policies becoming payable in the same period, together with the expenses of managing the business; that the balance remaining would be the profit chargeable to the income tax for the life branch; and that this profit, added to the untaxed profit of the marine, and fire branches, would represent the total liability of the company under Schedule D. In answer to the contention of the Surveyor, the company explained that in the life branch of their business there were three classes of policies, called respectively the "old" the "1831" and the "1846" series. The three classes were worked independently. As regarded the "old" series, any surplus which remained after payment of policies belonged to the company for payment of expenses, and profit. As regarded the "1831" and the "1846" series, by the terms of the contracts with the assured,

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the surplus which remained after payment of policies was dealt with as follows :—Two-thirds of the surplus were returned to the assured, who received payment, either by way of bonus, or by abatement of premium; and the remaining third of the surplus went to the company, the balance of which, after payment of expenses, constituted the only profit of the company available for division among the shareholders. The question for the opinion of the Court was, whether or not, for the purposes of assessment to income tax, the contention of the company, that the results of the three branches of their business should be thrown into one account, was sound; and upon what principle the profits of the life business should be calculated. It was held that the business of the company must be dealt with as a whole, and not as three separate businesses, although the accounts were naturally, as well as by compulsion of law, kept separate; and that the amounts yearly transferred from income to the life fund were not part of the profits of the company, and were not, therefore, subject to income tax. As regarded the question whether the amount set aside for distribution among the bonus policy holders was part of the expenses of the business, or profits, the judges (Day and A. L. Smith, JJ.) differed. Day, J., holding that it was part of the expenses of the business and not profits, while A. L.

Smith, J., held that it was profits. It was held Chap. II.
 that the case of the *Imperial Fire Assurance Co.*
v. Wilson (*ubi sup.*), had no bearing upon the
 first question, inasmuch as there was a radical Difference
 difference between fire and life insurance; fire between
 insurance premiums running out in all their premiums
 incidents in one year, while in life insurance on fire
and life
insurance.
 each premium has relation to the whole dura-
 tion of the life or risk, and every year's
 premium has to be set aside and capitalised
 for payment of the future debt. *Last v. Lon-*
don Assurance Corporation, 12 Q. B. D. 389;
 53 L. J., Q. B. 325; 50 L. T. 534; 32 W. R.
 702. On appeal the judges were again divided
 upon the question whether the amount distri-
 buted amongst the bonus policy holders was
 expenses or profits, which was, in fact, the only
 question remaining to be decided. Brett, M. R.,
 held, that two sets of persons must be con-
 sidered—the company, or in other words the
 shareholders, who carried on the business, and
 the customers, who were the assured. The tax-
 able profits were, therefore, what the share-
 holders received, while what was distributed
 amongst the bonus policy holders was expen-
 diture by which the profits were earned.
 Cotton, L. J., agreed with the Master of the
 Rolls, but Lindley, L. J., dissented, agreeing
 with A. L. Smith, J., in the Court below. The

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result was, that the Court of Appeal affirmed the judgment of the Court below. (14 Q. B. D. 245; 54 L. J., Q. B. 4; 52 L. T. 604; 33 W. R. 207.) The case was carried to the House of Lords, where there was again a difference of opinion. Lord Blackburn, with whom Lord Fitzgerald agreed, held, that the amount distributed amongst the bonus policy holders was not expenditure by which the shareholders earned the dividends payable to them, which alone were taxable profits, but that the bonus policy holders had in fact contracted for a share in the profits, and that the taxable profits included the amount divided amongst the bonus policy holders, as well as the amount paid in dividends to the shareholders. The case of the *Mersey Docks v. Lucas* (*ante*, p. 58) had decided that income tax was payable on profits, whatever the corporation earning the profits might be bound to do with them, and not only so, but the question was concluded by 5 & 6 Vict. c. 35, s. 54, which enacted that the estimate of the profits of a corporation should be made "before any dividend shall have been made thereof to any other person having any share, right, or title, in, or to, such profits." Lord Bramwell, however, dissented, and, in the course of his judgment, pointed out, that, if the contention of the Crown was right, all that insurance offices would have to do would be to alter their

language, but that income tax would be payable in all cases in which employers had agreed with employed that, besides fixed wages the employed should receive what is called a share of profits. The income tax would apply to co-operative societies strictly so called, and be payable on a sum falsely called profits, with no deduction of the wages contingently payable to workmen if gross profits enabled them to be paid. In the result, the judgment of the Court of Appeal (which had affirmed that of the Court below) was reversed. (L. R., 10 App. 438.)

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Employers contracting to pay employed a share of profits—
Lord Bramwell's opinion.
Co-operative societies—
Lord Bramwell's opinion.

A company carrying on the business of iron-founders claimed to deduct from the sum shown in their own report as net profits a sum which they had written off under a provision in their articles of association to form a reserve fund for the purpose of "meeting contingencies, or of purchasing, improving, enlarging, rebuilding, restoring, reinstating, or maintaining, the works, plant, and other premises, or property, of the company." The company had deducted a certain sum for repairs, and the deduction had been allowed. It was held that they were not entitled to make the deduction claimed. ¹*Forder v.*

Case of *Forder v. Handyside*.
Reserve fund for contingencies, &c.

¹ The case of *Forder v. Handyside* was decided in the year 1876, before the passing of 41 & 42 Vict. c. 15, s. 12 (*ante*, pp. 58, 64), which permitted an allowance to be made in respect of depreciation of machinery. The case is referred to by A. L. Smith, J., in the course of his judgment in *Gillatt and*

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Handyside, L. R., 1 Ex. D. 233; 35 L. T. 62; 24 W. R. 764.

Messrs. Gillatt & Watts paid a premium of 34,000*l.* for the lease of the house in which they carried on their business, and a rent of 250*l.* a year. The house was assessed to the income tax under Schedule A., at an annual value of 1,000*l.* Messrs. Gillatt & Watts contended that in making their returns for assessment under Schedule D. they were entitled to treat the 34,000*l.* paid in the first year as an actual expenditure in that year, so that, if they did not make any more than 34,000*l.*, they would have no income tax to pay at all, and that, the lease being for twenty-two years, they had a right to deduct in each year one twenty-second part of the 34,000*l.*, because the lease would diminish in value as every year was cut off from it. It was held, that the principle contended for was wrong; that the right principle was, taking the premium into consideration, and the rent, to take what an actuary would put as the fair rent for the lease for the time over which the lease extended—that is supposing no premium had been paid. It was found that the actual pre-

Watts v. Colquhoun (*infra*), as showing that the balance-sheet to be made out to show what profit a trader has made under Schedule D. is not to be worked out in the same way that the trader would make out his balance-sheet for his own information showing what profit or loss he has made.

mium was not a fair premium, but one much too large, and, the case stated containing a finding that the premises in question being assessed under Schedule A. at the sum of 1,000*l.*, that was, for the purposes of the case, to be taken as the "annual value" of the premises, the judges intimated that that should be taken as the fair rent the deduction of which should be allowed. ¹*Gillatt and Watts v. Colquhoun*, 33 W. R. 258. Chap. II.

Nothing is to be deducted which is not strictly part of the costs and expenses incurred in production. Therefore, although a brewer is entitled to deduct the annual cost of the buildings in which the beer is manufactured, the cost of Case of
Watney v.
Musgrave.

¹ It may be gathered, from the observations of A. L. Smith, J., in delivering judgment in this case, that a freeholder, carrying on his trade upon his own premises, would be entitled, in making his return of profits under Schedule D., to deduct a sum which would represent a fair rent for the premises. It will be remembered that special provision is made for the case of a person renting a dwelling-house of which part is used by him for the purpose of any trade or concern, enabling such person to make a deduction of so much, not exceeding two-thirds, of the rent paid by him as the Commissioners allow. (*Ante*, pp. 89, 91, 92.) This provision seems intended to meet the case where the trader lives upon premises which he has hired, and carries on his trade there also, so that the premises are part dwelling-house and part place of business. But where the owner of premises uses them solely for the purposes of the trade or concern which he carries on there, it would seem that he is entitled to deduct a fair rent.

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Adver-
tisements,
cost of.

the raw material used in the manufacture of beer, and the wages of the persons employed in the manufacture, and, it may be, under some circumstances, the cost of conveying the beer to the consumer, he is not entitled to deduct anything on account of premiums paid by him for leases of public-houses which he lets to tenants, whom he places under covenants to buy beer of him, any more than, if he chose to give dinners to publicans, and they said in return "we will buy a quantity of beer from you," he would be entitled to deduct the cost of the dinners; or than he would be entitled to deduct ¹the costs of advertisements by which he increased the sale of his beer. *Watney v. Musgrave*, L. R., 5 Ex. D. 241; 49 L. J., Ex. 493; 42 L. T. 690; 28 W. R. 491.

¹ As to the question whether the cost of advertisements may be deducted, the following observations were made by Grove, J., by way of illustration, in the course of his judgment in *Gillatt and Watts v. Colquhoun* (*ubi sup.*): "I may mention advertisements as one class of outlay, and in one case that was mentioned it was said to be a matter which ought to be deducted. No doubt it would be a most difficult question to settle, because it may differ in different trades. Some trades possibly may be founded very much upon advertisements; and there may be a trade of advertising which is founded upon the value of such advertisements. It is a question of degree, and I do not at present go the length of saying, that in no case can advertisements ever be deducted."

Second Source.—The second source from which the annual profits or gains chargeable under Schedule D. arise ¹is “professions, employments, or vocations, not contained in any other schedule;” and “employment” extends to every employment by retainer in any character whatever, whether such retainer shall be annual or for a longer or shorter period, “and all profits and earnings of whatever value.” ²The duty to be charged on annual profits or gains arising from this source is, like that on the annual profits or gains arising from the first source, to be computed exclusively of the profits of lands, and ³on an average of profits of three years. ⁴Friendly societies legally established, and so conducting their business as not to debar themselves from the benefit of the ⁵exemption under Schedule C., are exempted from liability to be charged under Schedule D., as under Schedule C. In ascertaining the profits, ⁶doubtful debts may be estimated, as in the case of profits arising from the first source.

Second Source.—Deductions allowed.—⁷The deduc-

¹ 5 & 6 Vict. c. 35, s. 100, second case, and first rule of second case.

² 5 & 6 Vict. c. 35, s. 100, second rule of rules applying to first and second cases.

³ 16 & 17 Vict. c. 34, s. 48.

⁴ 16 & 17 Vict. c. 34, s. 49.

⁵ See *ante*, pp. 75, 76.

⁶ 16 & 17 Vict. c. 34, s. 50. See *ante*, p. 87.

⁷ 5 & 6 Vict. c. 35, s. 100, rules applying to first and second cases.

Chap. II. tions allowed in estimating the balance of profits and gains upon which duty is charged under Schedule D., and which arise from the second source, are again, except in the case of deduction on account of life insurance or deferred annuity, generally only negatively indicated by a reference to deductions *not* allowed, which are the same, so far as the change of subject will permit, as those allowed in the case of profits arising from the first source, "profession, employment, or vocation," being substituted for "trade, manufacture, adventure, or concern." ¹In addition, however, to such deductions as are generally allowed, there is one positively permitted in the case of a clergyman or minister of any religious denomination, who is allowed to deduct from the profits, fees, or emoluments of his profession, any expenses incurred by him wholly, exclusively, and necessarily, in the performance of his duty or function as such clergyman or minister. ²A deduction is also allowed

¹ 16 & 17 Vict. c. 34, s. 52. The words "profits, fees, and emoluments of his profession," would seem to confine the operation of this provision to cases in which the clergyman, or minister, is chargeable under Schedule D. But inasmuch as the section commences with the words "in assessing the duty chargeable *under any schedule of this Act* upon any clergyman, or minister," we must assume, unless the words italicised have no meaning, that the deduction would be allowed in cases where the clergyman, or minister, is chargeable under Schedules A., B., C. or E., provided only that he enjoys that in respect of which he is charged as professional emolument.

² See *ante*, pp. 91, 92.

in respect of the rent of a dwelling-house, part of which is occupied for the purposes of a profession, the profits of which are chargeable under Schedule D. Chap. II.

Third Source.—¹The third source can only be circuitously described. It is a source from which arise “profits of an uncertain annual value not charged in Schedule A.” From the provisions which follow we may gather that the kind of profits intended are profits on securities bearing interest payable out of the public revenue (except ²securities charged under Schedule C.), discounts, (and interest of money not annual interest,) and the profits arising from such trades as those of dealers in cattle and sellers of milk, who are concerned in an indirect way with land, but whose profits cannot be accurately estimated by the rent they pay for land in their occupation. The duty is charged upon the full amount of the profits or gains within the preceding year, ending on the day of the year immediately preceding the year of assessment, on which the accounts of the business (if profits of a business are in question) have been usually made up, or on the 5th day of April preceding the year of assessment. In the case of land occupied by a dealer in cattle, or a dealer in, or seller of, milk, where the land occupied has been estimated or charged on the rent or annual

Land occupied by a dealer in cattle, or a dealer in, or seller of, milk.

¹ 5 & 6 Vict. c. 35, s. 100, third case.

² As to these securities, see *ante*, pp. 75—77.

Chap. II. value, but is not sufficient for the keep and sustenance of the cattle brought on the land, so that the rent or annual value of the land cannot afford a just estimate of the profits of such dealer, a return of such profits is required, and such further sum must be charged thereon as, together with the charge in respect of the occupation of the land, makes up the full sum where-with such trader ought to be charged. The same deduction on account of life insurance, or purchase of deferred annuity, is allowed as ¹in the case of profits and gains arising from the first source. ²All annuities, yearly interest of money, or other annual payments charged on any property of the person paying the same, or payable by virtue of any contract, are also charged with duty under the provisions applicable to the third case of Schedule D.

Case of
Strong.
Gift of
money
raised by

A gift of money raised by voluntary subscription and made annually to a minister of religion by his congregation is assessable—the annual

¹ See *ante*, pp. 90, 91.

² 5 & 6 Vict. c. 35, s. 102. The practical effect of this provision is, however, confined to cases in which the annual payment is, by reason of the same being charged on property in any of her Majesty's dominions abroad, or on any foreign property, or foreign security, or otherwise, received without any deduction of duty being made by the person liable to make such payment (see *post*, pp. 140—143), or where any such payment is made from profits or gains not charged by the Income Tax Acts, or where any interest of money is not reserved, or charged, or payable, for the period of one year.

gift being either "gain" under Schedule D., or **Chap. II.**
 "emolument" ¹under Schedule E. *In re George* ^{voluntary}
Walter Strong, 15 Soc. L. R. 704. ^{subscription.}

Fourth Source.—²The fourth source is securities in what are called in the ³Income Tax Act, 1842, "the British Plantations in America," or in any other of her Majesty's dominions out of Great Britain, and foreign securities, from which interest arises, except ⁴such annuities, dividends, and shares, as are charged under Schedule C. ⁵It includes dividends, and shares of annuities, payable out of the revenue of any foreign state, and interest, dividends, or other annual payments, payable out of, or in respect of, the stocks, funds, or shares, of any foreign, or ⁶colonial, company, society, adventure, or concern, or in respect of any securities given by, or on account of, any such company, &c., and ⁷all annuities, pensions, or other annual sums, payable out of the funds of any institution in India, which have been intrusted to any person, corporation, company, or society, in the United

¹ As to Schedule E., see *post*, p. 112.

² 5 & 6 Vict. c. 35, s. 100, fourth case.

³ 5 & 6 Vict. c. 35.

⁴ As to these annuities, &c., see *ante*, pp. 75—77.

⁵ 5 & 6 Vict. c. 80, s. 2, and 16 & 17 Vict. c. 34, s. 10.

⁶ 24 & 25 Vict. c. 91, s. 36 (the phrase "person entrusted with payment" in this section, has the same extent of meaning as in sect. 96 of 5 & 6 Vict. c. 35, as to which see *post*, p. 162, note ²); 48 & 49 Vict. c. 51, s. 26.

⁷ 31 & 32 Vict. c. 28, s. 5.

Chap. II. Kingdom, for payment to any person, corporation, company, or society, in the United Kingdom. The same deduction on account of life insurance, or purchase of deferred annuity, is allowed as ¹in the case of profits and gains arising from the first source.

Fifth Source.—²The fifth source is possessions in the “British Plantations in America,” or in any other of her Majesty’s dominions out of Great Britain, and foreign possessions. The duty is charged upon the actual annual sums received in Great Britain upon an average of three preceding years, allowing such deductions only ³as in the case of profits arising from the first source.

Sixth Source.—⁴The sixth source is such as produces annual profits or gains not falling under any of the preceding cases, and not charged by virtue of any other schedule. The duty is charged on the amount of the value of the profits and gains received annually, or according to an average of such period, greater or less than one year, as the case may require, and as shall be allowed by the Commissioners. The same deduction on account of life insurance, and purchase of deferred annuity, is allowed as ¹in the

¹ See *ante*, pp. 90, 91.

² 5 & 6 Vict. c. 35, s. 100, fifth case.

³ See *ante*, pp. 87 *et seq.*

⁴ 5 & 6 Vict. c. 35, s. 100, sixth case.

case of profits and gains arising from the first Chap. II.
source.

Exemption from Duty and Abatement under Schedule D.—¹Friendly societies legally established, and not assuring to any individual any sum which would debar such society from the benefit of the exemption granted to friendly societies by 5 & 6 Vict. c. 35, in respect of their stocks, &c., chargeable under Schedule C., are exempted from the duty chargeable under Schedule D. ²A person whose income is less than 150*l.* a year is exempted from payment of income tax; and a person whose income, though exceeding 150*l.* a year, is less than 400*l.* a year, is entitled to an abatement in respect of 120*l.* of his income. The mode in which such exemption and abatement respectively may be claimed and allowed will be described ³later on. ⁴Abatements may be claimed on account of diminution of profits and gains within the year current at the time of making the assessment, which reduces the profits and gains for that year below the sum at which they were computed, and also in case the person charged ceases to carry on trade, or dies, before the end of such year.

¹ 16 & 17 Vict. c. 34, s. 49.

² 39 & 40 Vict. c. 16, s. 8.

³ See *post*, pp. 206, 212, 233.

⁴ 5 & 6 Vict. c. 35, ss. 133, 134. As to the mode in which such abatements are claimed and made, see *post*, pp. 242—244.

Chap. II. *Doubtful Debts may be valued.*—¹In ascertaining the profits of any person chargeable under Schedule D., the value of all doubtful debts due or owing to the person who is to be charged may be estimated, and in the case of the bankruptcy, or insolvency, of the debtor, the amount of the dividend which may reasonably be expected to be received on any debt due from him is to be deemed the value thereof.

SECTION V.—SCHEDULE E.

Public Offices, &c.—Under Schedule E. the duty is charged ²“for and in respect of, every public office or employment of profit, and upon every annuity, pension, or stipend, payable by her Majesty, or out of the public revenue of the United Kingdom, except ³annuities charged to the duties under Schedule C.,” for every ⁴twenty shillings of the annual amount thereof. ⁵The following is an enumeration of the “public offices and employments of profit,” upon which the duty is charged, for all “salaries, fees, wages, perquisites, or profits,” accruing therefrom, under Schedule E., viz.:—

Offices:— 1. Parliament. Any office belonging to either
1. Of Par- House of Parliament.
liament.

¹ 16 & 17 Vict. c. 34, s. 50.

² 16 & 17 Vict. c. 34, s. 2.

³ As to these annuities, see *ante*, pp. 75—77.

⁴ Fractional parts of 20s. are charged with duty by the Act 16 & 17 Vict. c. 34, s. 3; but no duty is charged of a lower denomination than 1d.

⁵ 5 & 6 Vict. c. 35, s. 146, r. 3.

2. Courts of justice. Any office belonging to any Court of justice. Chap. II.
2. Of Courts of justice.
3. Civil Service, &c. Any public office held under the civil government of her Majesty, or in any county palatine, or the duchy of Cornwall. 3. Of civil service.
4. Army, navy, &c. The office of any commissioned officer in the army or navy, or in the militia or volunteers. 4. Of army, navy, &c.
5. Ecclesiastical. Any office held under any ecclesiastical body. 5. Ecclesiastical.
6. Public corporations, &c. ¹Any office held under any public corporation, or under any company or society. 6. Of public corporations, companies or societies.
7. Public institutions. Any office under any public institution, or in any public foundation. 7. Of public institutions.
8. County, municipal, &c. Any office in any county, city, town, or place. 8. County, municipal, &c.
9. General. Every other public office or employment of profit of a public nature. 9. Generally.

The profits ² may be estimated either on the profits of the preceding year, or on the fair average of one year of the amount of the profits in the three years preceding, such years in each case ending on the 5th day of April in each year, or on the other day of each year on which the accounts of such profits

¹ Including offices, and employments of profit held in, or under, any railway company. See 23 & 24 Vict. c. 14, s. 6.

² 5 & 6 Vict. c. 35, s. 146, fourth rule.

Chap. II. have been usually made up. And in estimating the profits the following deductions may be made, viz. :—

First deduction :
Duties,
&c. payable by
Act of Parliament.

1. ¹The amount of duties, or other sums, payable or chargeable on the same, by any Act of Parliament, where such duties, &c., have been actually paid by the person charged.

Second deduction :
Official deductions.

2. ²All official deductions and payments made upon the receipt of the salaries, fees, wages, perquisites, and profits.

Third deduction :
Expenses of travelling and keeping a horse.

3. ³The expenses of travelling in performance of the duties of the office or employment, necessarily incurred, or of keeping a horse necessary for the fulfilment of such duties, actually defrayed out of the emoluments of the office or employment, and money otherwise necessarily and actually expended in the performance of such duties.

Fourth deduction :
For life insurance.

4. A deduction on account of life insurance and purchase of deferred annuity, similar to ⁴that allowed in case of profits, &c., chargeable under Schedule D.

Exemption when Income is under 150l.; and Abatement when Income is under 400l.—⁵A person whose income is less than 150l. a-year is exempt from pay-

¹ 5 & 6 Vict. c. 35, s. 146, first rule.

² 5 & 6 Vict. c. 35, s. 146, ninth rule.

³ 16 & 17 Vict. c. 34, s. 51.

⁴ See *ante*, pp. 90, 91.

⁵ 39 & 40 Vict. c. 16, s. 8.

ment of income tax; and ¹a person whose income, Chap. II.
though exceeding 150*l.*, is less than 400*l.* a-year, is
entitled to an abatement in respect of 120*l.* of his
income. The mode in which the exemption and
abatment respectively are claimed and allowed will
be described ²later on.

¹ 39 & 40 Vict. c. 16, s. 8.

² *Post*, p. 233, and pp. 206, 212.

CHAPTER III.

ASSESSMENT AND COLLECTION.

WE have now to explain the modes in which the duties of income tax are assessed, and collected. The modes of assessment, and collection, differ according to the kind of property, or character of profits, to be charged. The simplest way to deal with the subject will be to take each schedule in turn, and describe with reference to the property, or profits, comprised in each the mode of assessment, and collection, prescribed.

SECTION I.—SCHEDULE A.

SUB-SECTION I.—ASSESSMENT.

Who are Commissioners for assessing Duty under Schedule A.—¹The General Commissioners act in all matters relating to the duties in Schedule A., except ²such allowances in respect thereof as are made by the Special Commissioners, and except ³assessments in respect of the annual value of, or profits or gains arising from, railways, ⁴which are made by the Special Commissioners.

¹ 5 & 6 Vict. c. 35, s. 22.

² 5 & 6 Vict. c. 35, s. 22. As to allowances made by the Special Commissioners, see *post*, Chap. IV.

³ 23 & 24 Vict. c. 14, s. 5.

⁴ See *post*, p. 137.

Place of Charge.—¹All properties chargeable to the **chap. III.** duties under Schedule A. are charged in the parish or place where the same are situate, except in the following cases:—

1. Canals, &c. The profits arising from canals, inland navigations, streams of water, drains or levels, railways, and roads or ways of a public nature, and belonging to, or vested in, any company of proprietors or trustees, corporate or not corporate, may be stated in one account, and charged in the city, town, or place, at, or nearest to, the place at which the general accounts of such concern have been usually made up.

First case of exception: Canals, &c., railways, roads, &c.

2. Manors and royalties. The profits arising from any manor or royalty which extends into different parishes may be assessed in one account in the parish where the Court for such manor or royalty has been usually held. And the profits arising from all fines received by the same person may be assessed in one account where the person to be charged resides.

Second case of exception: Manors and royalties.

3. Lands occupied by the same person. All lands occupied by the same person are to be brought into every account required to be delivered by such person, although situated in different parishes, but the duties to be charged thereon are charged in each parish, in proportion to the value of the property situate therein. But land situate in the same district of Commissioners, although in different parishes, may be charged in either parish at the discretion of the

Third case of exception: Lands in different parishes occupied by the same person.

¹ 5 & 6 Vict. c. 35, s. 60, No. 4, rr. 1, 2.

Chap. III. Commissioners, if they are satisfied that the proportion in each parish, either in respect of the quantity, rent, or value, of the lands cannot be ascertained. If the lands extend into different districts of Commissioners, they are to be assessed in the district in which the occupier resides.

Mode of proceeding to obtain Return.—¹The Assessor for each parish, being appointed as we have ²before explained, causes notices to be affixed on the door of the church, or chapel, of the parish, and in other specified situations, requiring ³all persons who are bound to make any list, declaration, or statement, to make out, and deliver the same to the Assessor, or to the General Commissioners, or their Clerk, at a place to be specified in the notice, within a time which must not be more than twenty-one days. The notices must remain up for ten days before the day appointed for the delivery of the list, &c.; and every person who defaces a notice renders himself liable to a penalty not exceeding 20*l*. Further, although the general notice we have mentioned is to be deemed sufficient notice to all persons resident within the place for which the Assessor acts, ⁴he must also give a similar notice to every person chargeable in respect of any property situate, or profits arising, within the limits of such place. This additional notice may be

¹ 5 & 6 Vict. c. 35, s. 47.

² *Ante*, pp. 26 *et seq.*

³ As to the persons bound to make out lists, &c., see *post*, pp. 119—121.

⁴ 5 & 6 Vict. c. 35, s. 48.

served by leaving it at the residence of the person to be charged, or on the premises upon which the assessment is made; or, if given by a Surveyor, as may be the case when Assessors are not appointed, or ¹when the Assessor has neglected to give the notice to any person to whom it ought to be given, or when any person comes to reside in any parish, or place, after the expiration of the notices given by the Assessor, ²may be sent by registered post. Chap. III.

Persons required to make out Lists, &c.—The persons who are required to make out lists, declarations, and statements, and who are, therefore, affected by the above-mentioned notices, are the following:—

1. Persons chargeable. ³Every person chargeable with duty must, when required to do so, prepare a statement in writing containing (a) the ⁴annual value of all lands and tenements in his occupation, and (b) the amount of the profits or gains made by him, and chargeable, from whatever source they arise. 1. Persons chargeable with duty must make out statement.

2. Persons acting for others. ⁵Every person who receives money, or value, or profits, or gains, belonging to any other person, for which such other person is chargeable, or would be chargeable if resident in Great Britain, must prepare a statement in writing of 2. Persons acting for others must make out statements;

¹ 5 & 6 Vict. c. 35, s. 57.

² 43 & 44 Vict. c. 19, s. 16.

³ 5 & 6 Vict. c. 35, s. 52.

⁴ As to the meaning of "annual value" under Schedule A., see *ante*, pp. 46 *et seq.*

⁵ 5 & 6 Vict. c. 35, s. 51.

Chap. III. such money, value, profits, or gains, and of the name and place of abode of every person to whom the same belongs, and whether such person is of full age, or a married woman living with her husband, or a married woman for whose payment of the duty the husband is not accountable, or resident in Great Britain, or an infant, idiot, lunatic, or insane person. If any other person is joined with the person delivering this statement in receiving such money, value, profits, or gains, *his* name and address must also be

and if the owner of the property is an idiot, or lunatic, or resident out of Great Britain, must add a declaration.

stated. ¹If the person to whom the money, &c., belongs is an idiot or lunatic, or resident out of Great Britain, and so cannot be personally charged, the person making the statement must add a declaration that the amount of the profits, &c., has been estimated on all the sources mentioned in the schedules, describing the same, as if he himself were to be charged in respect of property of his own.

3. Officers of companies must make out statements.

3. Officers of companies. ²The Chamberlain, or other officer acting as treasurer, auditor, or receiver, for the time being, of any corporation, fraternity, fellowship, company, or society, must prepare a statement in writing of the profits and gains of such corporation, &c.; and ³must also do all such acts as are required to be done for assessing the officers and persons in the employment of the corporation, &c. The estimate of profits, &c., must be made on the amount of the annual profits and gains before any

¹ 5 & 6 Vict. c. 35, s. 53.

² 5 & 6 Vict. c. 35, s. 54.

³ 42 & 43 Vict. c. 21, s. 18.

dividend is paid ; but salaries, wages, or profits, of any officer of such corporation, &c., otherwise chargeable, are not to be included in the statement. Chap. III.

4. Persons having lodgers, employés, &c. ¹Every person, on being required to do so, must prepare a list in writing of the names of lodgers or inmates resident in his dwelling-house, and of other persons chiefly employed in his service, whether resident in his dwelling-house or not, and of any lodger or inmate who has any ordinary place of residence elsewhere at which he is entitled, and desires, to be assessed. 4. Persons having lodgers, employés, &c. must make out lists of names.

²The lists, &c. must be made out in the prescribed form, and signed by the person making them, and delivered to the Assessor of the parish, or place, in which such person resides. In the case of statements made by trustees, or agents, of persons incapacitated, or abroad, the statements may be signed by all the trustees, or agents, if more than one, or by one on behalf of himself and his colleagues ; and when the statement is made by the person chargeable, or, as before mentioned, by the agent of a person incapacitated, or resident out of Great Britain, or by the officer of a corporation, &c., it must contain a declaration that the amount of profits which it shows has been estimated on all the sources contained in the schedules describing the same. ³The penalty for

¹ 5 & 6 Vict. c. 35, s. 50.

² 5 & 6 Vict. c. 35, ss. 50, 51, 52, 53, 54, 190, Sched. G.

³ 5 & 6 Vict. c. 35, s. 55.

Chap. III. neglecting to deliver lists, &c. is, if proceeded for by information before the Commissioners, a sum not exceeding 20% and treble duty, the increased duty to be added to the assessment; if proceeded for in a court of law, 50%. But if any person who is required to deliver a list, &c., on behalf of another, delivers an imperfect list, &c., and declares that he is at the time unable to deliver a more perfect list, &c., giving reasons for such inability, and the Commissioners are satisfied with the reason given, further time may be granted for the delivery of a list, &c., as perfect as the nature of the case admits of. ¹And no person required to deliver a list of persons in his service or employ is liable to a penalty for omitting the name, or residence, of any such person not resident in his dwelling-house, if it appears that such person is exempt from payment of duty. ²And a person who has not received a particular notice from the Assessor, ³as before mentioned, is not liable to any penalty for having neglected to make a statement of income, if it appears to the Commissioners on inquiry that he is entitled to be exempt from payment of all duty.

Persons chargeable.—All persons who are in possession for their own benefit of profits arising from property, professions, trades, and offices, are “persons chargeable” with duty in respect thereof.

¹ 5 & 6 Vict. c. 35, s. 50.

² 5 & 6 Vict. c. 35, s. 56.

³ *Ante*, pp. 118, 119.

Persons chargeable in respect of Profits not their own. Chap. III.

—Besides those who are in receipt for their own benefit of profits arising from property, professions, trades, and offices, and who are chargeable with duty in respect thereof, certain other persons are chargeable in respect of profits not their own, but which they receive for others. Thus ¹the parent, guardian, or tutor, of any infant or person under twenty-one years of age, and the trustee, guardian, tutor, curator, or committee, of any infant, married woman, lunatic, idiot, or insane person, having the management of the property of such infant, &c., whether such infant, &c., is resident in Great Britain or not; and ²the executors or administrators of any person dying; and ³the factor, agent, or receiver, having receipt of

Persons chargeable in respect of profits not their own;

parents, trustees, guardians, tutors, curators, committees;

executors and administrators;

¹ 5 & 6 Vict. c. 35, ss. 41, 108, 173; 43 & 44 Vict. c. 19, s. 92.

² 5 & 6 Vict. c. 35, s. 173; 43 & 44 Vict. c. 19, s. 92.

³ The person not resident in Great Britain is, strictly speaking, to be charged, but *in the name of* his trustee, guardian, tutor, curator, committee, factor, agent, or receiver. (Sect. 41.) This, however, practically amounts to the trustee, &c. being chargeable, and he is responsible for doing all acts requisite for assessment. But see sect. 108. In *Tischler v. Apthorp* (33 W. R. 548), Mathew, J., referring to sect. 41 of 5 & 6 Vict. c. 35, said, "When one looks at the section, and then at sect. 44" (see below), "it is clear that sect. 41 is intended to aid the Commissioners in recovering the tax, and not to alter the incidence of taxation in any way, for, under sect. 44, the agent who was charged under sect. 41 is entitled to recover from his principal, who is the person really liable, any payment he may have made. If the principal can be got at, there is no need to have recourse to sect. 41. But where the case contemplated by sect. 41

Chap. III. any profits belonging to any person resident out of Great Britain; ¹the receiver appointed by the Chancery Division of the High Court of Justice, or any other Court in Great Britain having the direction and control of any property chargeable; ²the husband of any married woman living with her husband (in respect of profits of the wife); ³the wife of any man, living separate from her husband, whether he shall be only temporarily absent or otherwise (in respect of any allowance or remittance received from her husband, or from property of his out of Great Britain); are all chargeable in respect of the profits received by them in the characters aforesaid. So ⁴all bodies politic, corporate, or collegiate, companies, fraternities, fellowships, or societies of persons, corporate or not corporate, are chargeable, and the officer acting as treasurer, auditor, or receiver, for the time being, is to do all acts requisite for assessment. ⁵But parents, trustees, agents, factors, receivers, guardians, tutors, curators, or committees, executors, or administrators, so charged may retain

factors,
agents
and re-
ceivers;
receivers
appointed
by the
Chancery
Division
of the
High
Court of
Justice;
husbands
of married
women;
wives
living
separate
from their
husbands;
bodies
politic,
&c., com-
panies,
&c.;

trustees,
&c. may
retain
moneys
for pay-

arises, of one resident abroad who cannot be reached by the Commissioners, then the Commissioners can come down upon the agent."

¹ 5 & 6 Vict. c. 35, s. 43.

² 5 & 6 Vict. c. 35, s. 45.

³ 5 & 6 Vict. c. 35, s. 45. Married women acting as sole-traders, or having separate property, are chargeable as if unmarried.

⁴ 5 & 6 Vict. c. 35, s. 40.

⁵ 5 & 6 Vict. c. 35, ss. 44, 73; 43 & 44 Vict. c. 19, s. 92.

from moneys coming to their hands when acting **Chap. III.** in such capacities enough to pay the duties charged, and every such officer of a company, &c. is indemnified against the company, &c. for all payments made by him in discharge of such chargeableness as aforesaid. ¹ A trustee who has authorized the receipt of the profits arising from the trust property by the person entitled thereto, or his agent (provided they have been actually so received), need, however, do no more than return a statement of the name and residence of such person, and the case is the same with any agent, or receiver, of any person of full age resident in Great Britain, not being a married woman, lunatic, idiot, or insane person, unless indeed the testimony of the trustee, agent, or receiver, is required by the Commissioners, ² for then such testimony must be given.

ment of duties; officers of companies indemnified in paying duties; trustees in certain cases only bound to return names of *cestuis que trust*; and agents, &c. of names of persons for whom they act.

Occupiers chargeable for Owners of Land.—³ The occupier, that is, the person having the use, of any lands or tenements for the time being, is chargeable with the duties under Schedule A., although he is not the owner of the lands and tenements, and although ⁴ he has not occupied them for the whole period for

¹ 5 & 6 Vict. c. 35, s. 42.

² 5 & 6 Vict. c. 35, s. 125.

³ 5 & 6 Vict. c. 35, s. 63, No. 9, rr. 1, 2, 3. The occupier may deduct the duties paid by him from his rent. See *post*, pp. 140, 141.

⁴ Every tenant on quitting the occupation is liable for any

Chap. III. which the duty is levied. There are, however, the following exceptions to this rule, the reasons for which will be easily understood :—

First exception : Dwelling-house under the value of 10%. a year, and land or tenement let for a less period than one year.

1. Dwelling-house under the value of 10%. a-year, or let for a period less than one year. ¹The owner, and not the occupier, is chargeable in the case of any dwelling-house in the occupation of a tenant which, with the buildings or offices belonging thereto and the land occupied therewith, is under the value of 10%. a-year, and also in the case of any land or tenement let to any tenant for a less period than one year. But in default of payment by the owner the duty may be recovered from the occupier.

Second exception: House occupied by foreign minister.

2. House occupied by foreign minister. ²The owner, or person immediately entitled to the rent, and not the occupier, is chargeable in the case of any

arrears at the time of so quitting, and for a proportionate part of the accruing duty up to the time of quitting. The amount for which the tenant quitting is so liable must be settled and levied by the Commissioners, and repaid to the occupier by whom the same has been paid. The executors, or administrators, of any tenant who dies before payment of any such assessment, is liable in like manner as the testator or intestate would have been if living. Every tenant quitting before the time of making the assessment, is liable for such portion of the year as has elapsed at the time of his so quitting, and the amount for which he is so liable must be adjusted, and settled, by the Commissioners; 5 & 6 Vict. c. 35, s. 63, No. 9, r. 3. These provisions can only have effect where the occupier cannot deduct the duty he has paid from the rent. See the last note.

¹ 5 & 6 Vict. c. 35, s. 60, No. 4, r. 3.

² 5 & 6 Vict. c. 35, s. 60, No. 4, r. 7.

house or tenement occupied by any accredited minister Chap. III.
from any foreign prince or state.

3. House let in apartments. ¹The landlord of any house or building let in different apartments or tenements, and occupied by two or more persons severally, is chargeable in respect of such house, &c. But in default of payment by him, the duty may be levied on the occupier or occupiers respectively. And ²where any house is divided into distinct properties, and occupied by distinct owners, or their respective tenants, the duties are charged upon the respective occupiers.

Third exception :
House let
in apart-
ments.

Landowner chargeable for Owner of Rentcharge in lieu of Tithe.—³By an exception introduced in the case of the owner of a rentcharge confirmed under the ⁴Act passed for the commutation of tithes, the owner of the land out of which the rentcharge issues pays the duty in respect of the land without any deduction on account of such rentcharge, though ⁵on paying the rentcharge he will of course deduct the duty thereon. ⁶But (⁷except in the Metropolis), on a due return of any such rentcharge being made by the owner thereof in order to an assessment upon him, the Commissioners acting in the matter may, if they think fit,

¹ 16 & 17 Vict. c. 34, s. 36.

² 5 & 6 Vict. c. 35, s. 60, No. 4, r. 13.

³ 5 & 6 Vict. c. 35, s. 60, No. 2, r. 3.

⁴ 6 & 7 Will. IV. c. 71.

⁵ 5 & 6 Vict. c. 35, s. 60, No. 4, r. 10. See *post*, pp. 142, 143.

⁶ 16 & 17 Vict. c. 34, s. 32.

⁷ 32 & 33 Vict. c. 67, s. 77.

Chap. III. charge and assess the owner of the rentcharge in respect thereof, allowing a deduction for the amount of the parochial rates charged upon, or in respect of, such rentcharge during the preceding year, and, in case the assessment is made upon the owner of the rentcharge, the amount of the rentcharge is allowed as a deduction in the assessment of the land upon which the same is charged.

Other Persons chargeable.—¹Subjects of the Queen whose ordinary residences are in Great Britain, but who have gone abroad for the purpose only of occasional residence, remain chargeable as if they had continued to reside in Great Britain. Persons temporarily in Great Britain become chargeable after residence, at one time, or at several times, for a period amounting to six months in any one year.

Proceedings after Notices given.—The notices having been given, ²the Assessor appears before the Commissioners at the time appointed, and verifies upon oath the fixing of the general notices, and the delivery of the particular notices; and, if it appears that notices have not been served upon any persons, the Surveyor may cause notices to be served on them, as he may also cause notices to be served upon persons coming to reside in the parish after the Assessor's report.

¹ 5 & 6 Vict. c. 35, s. 39.

² 5 & 6 Vict. c. 35, ss. 57, 58.

Assessment—Period for which made.—¹Every assess- Chap. III.
ment is made for the year commencing on the 6th
day of April in any year, and ending on the 5th day
of April following; each of such days being reckoned
inclusively.

*Assessment in Case of Return made by Party charge-
able.*—²In the meantime, however, the Assessor pro-
ceeds to make his assessment, observing therein,
in the case of each kind of property, the rules
applicable thereto, which we have before explained;
and using the returns made by the party chargeable.
If he finds a difficulty in so doing, he applies for
instruction, and assistance, to the Commissioners, or
to the Surveyor. If he is not satisfied with the
return made by the person to be charged, or if no
return has been made, and if the annual value
cannot otherwise be ascertained, he proceeds to
estimate to the best of his judgment the annual
value of the property of which no account, or no suf-
ficient account, has been delivered, and to assess the
same ³except in the Metropolis; ⁴taking as his guide
the last assessment of the property for the purpose
of the poor-rate in all cases in which the poor-rate
has been made throughout by a pound-rate on the
annual value as it would be estimated according to

¹ 43 & 44 Vict. c. 19, s. 48.

² 5 & 6 Vict. c. 35, ss. 64, 74.

³ See below.

⁴ 5 & 6 Vict. c. 35, s. 64, No. 11, r. 1.

Chap. III. Schedule A.; and in other cases, whenever possible, taking the assessment for the purpose of the poor-rate as his guide according to certain prescribed rules. In the Metropolis, as that word is defined by the ¹Valuation (Metropolis) Act, 1869—that is, the unions, and parishes not in union, which are, for the time being, either wholly or for the greater part in value situate within the jurisdiction of the Metropolitan Board of Works appointed under the ²Metropolis Management Act, 1855—³the valuation list made in pursuance of the ⁴Valuation (Metropolis) Act, 1869, and for the time being in force, is conclusive evidence of the gross value, and rateable value, of the several hereditaments included therein, and of the fact that all hereditaments required to be inserted therein have been inserted therein, for the purpose of the ⁵Income Tax Acts, in all cases where the tax is charged upon the gross value and not on profits. ⁶“Gross value,” as used in the Act we have just been quoting, is defined to mean, “the annual rent which a tenant might reasonably be expected, taking one year with another, to pay for a hereditament, if the tenant undertook to pay all

In the Metropolis the valuation list is conclusive evidence of “gross” and “rateable” value.

¹ 32 & 33 Vict. c. 67. See *ante*, p. 29, note ³.

² 18 & 19 Vict. c. 120.

³ 32 & 33 Vict. c. 67, s. 45.

⁴ 32 & 33 Vict. c. 67. The provisions of this Act relating to the making of valuation lists, and to appeals, contained in sects. 6—42, should be referred to.

⁵ 5 & 6 Vict. c. 35, and any Acts continuing or amending the same. See 32 & 33 Vict. c. 67, s. 45 (2) (b).

⁶ 32 & 33 Vict. c. 67, s. 4.

usual tenant's rates and taxes, and tithe-commutation rentcharge, if any, and if the landlord undertook to bear the cost of the repairs, and insurance, and the other expenses, if any, necessary to maintain the hereditament in a state to command that rent;" while the term "rateable value," as used in the same Act, is defined to mean ¹"the gross value after deducting therefrom the probable annual cost of the repairs, insurance, and other expenses as aforesaid." The Assessor ²may, however, estimate the value of any dwelling-house which, with any ground occupied therewith, is of less annual value than 10%, and the value of which he is able to estimate, either according to the prescribed rules, or of his own knowledge, without requiring a return of the annual value, unless the Surveyor objects to his so doing; and this extends to land separately occupied. ³He is authorized to require any tenant to produce to him the lease, or agreement, under which the tenant holds; and, if the lease, or agreement, was made within the period of seven years, and the rent reserved expresses the full consideration, either in money or in value, for the lease, the Assessor may take such rent as the annual value of the property; but always having regard to any increase of the amount of the reserved rent, by reason of any agreement by the landlord to pay tenant's rates and

¹ 32 & 33 Vict. c. 67, s. 4.

² 5 & 6 Vict. c. 35, s. 65.

³ 5 & 6 Vict. c. 35, s. 66.

Chap. III. taxes, or to any decrease of the amount of the same rent, by reason of any agreement by the tenant to pay landlord's rates and taxes. ¹Express provision is made for cases in which the tenant has undertaken to make certain improvements in the property let, and the rent has been fixed with reference to the estimated result of such improvements, but at a sum higher than the present annual value of the property. ²If the tenant holds under a parol agreement made within the same period of seven years, or for any reason has not the custody of the lease under which he holds, it will be enough, if, instead of producing a lease or agreement, he gives to the Assessor an account in writing, signed by himself, of the actual amount of the annual rent reserved; and the Assessor may make the assessment according to such rent. ³The penalty for delivering a false account, or omitting to produce any lease or agreement, with intent to conceal the annual value of the property comprised therein, is 20% and treble duty.

Case of
Campbell
v. Inland
Revenue.

Where there is an existing lease, made within the last seven years, by which the property which is the subject of the assessment is let at rack-rent, the rent named is to be taken as the annual value. But if upon the face of the lease it clearly appears that what is called rent is pay-

¹ 5 & 6 Vict. c. 35, s. 66.

² 5 & 6 Vict. c. 35, s. 67.

³ 5 & 6 Vict. c. 35, s. 68.

able, in part at least, for something which is not the subject of assessment, the clause does not apply. *Campbell v. Inland Revenue*, 17 Sco. L. R. 23. In this case a part of what appeared to be rent was in fact an annual instalment of a sum agreed to be paid for purchase of the goodwill of a business, and for stock in trade, the remainder only being rent properly so called. Chap. III.

Delivery of Certificates of Assessment.—The Assessor, having made his assessments, introduces the same into a certificate, the form of which is prescribed by the ¹Taxes Management Act, 1880, and delivers the certificate to the General Commissioners, with all returns made to him; and ²the General Commissioners forthwith deliver the certificate to the Surveyor for examination. ³The Surveyor has a right to examine every return, and every first assessment of the duties made for any parish, for any year; and every person who has any such return in his custody must deliver the same to the Surveyor, if he requests him to do so, taking the Surveyor's receipt for the same; and the Surveyor may take charge of any assessment so delivered to him, until he has taken such copies of, or extracts from, the same as may be necessary for his better information. ⁴Any person who wilfully ob-

¹ 43 & 44 Vict. c. 19.

² 43 & 44 Vict. c. 19, s. 50.

³ 43 & 44 Vict. c. 19, s. 51; 5 & 6 Vict. c. 35, s. 161.

⁴ 5 & 6 Vict. c. 35, s. 161.

Chap. III. structs the Surveyor in the performance of his duty in this respect is liable to a penalty of 50%. ¹The Surveyor may also require the Assessor to give notice to the overseers of the parish to deliver the rate books of the parish, and a true copy of the last rate made, to the Surveyor for his use, or to produce them to the General Commissioners; and ²he may at all times inspect, and take copies of, or extracts from, any book kept by any parish officer, or other person, concerning the poor-rates, or any other public taxes or rates; and ³if the occupier, or other person chargeable, has, after due notice given, omitted to make the required return, or has made a return with which the General Commissioners are dissatisfied, the Surveyor may, after having first obtained an order from the General Commissioners, and after two days' notice to the occupier, accompanied by such skilled persons as are named in the order, view and examine any property chargeable, in order to ascertain its annual value. A similar power is given to Assessors.

Amendment of Assessment.—⁴If the Surveyor, upon examination, discovers that any properties, or profits, chargeable to the duties have been omitted, or that any person chargeable has not made a full and proper

¹ 5 & 6 Vict. c. 35, s. 75.

² 5 & 6 Vict. c. 35, s. 76.

³ 5 & 6 Vict. c. 35, s. 78.

⁴ 43 & 44 Vict. c. 19, s. 52.

return, or has made no return at all, or has not been charged, or has been undercharged, or has obtained any allowance, deduction, abatement, or exemption, not authorized, he corrects and amends the assessment. If the discovery should be made after the assessment has been signed and allowed in the manner ¹presently described, but within four months of the expiration of the year to which the assessment relates, the Surveyor certifies this error to the General Commissioners, who then sign and allow an additional first assessment, made in accordance with the particulars certified by the Surveyor.

Chap. III.

Surveyor's
certificate.

Additional
first as-
sessment.

Allowance of Assessments.—²After the Surveyor has examined the assessments made, the General Commissioners take them into consideration; and, if the Surveyor has made no objections, and they are satisfied, they sign and allow the assessments. If the Surveyor makes an objection to any assessment, the Commissioners ³rectify the same according to the best of their judgment. The General Commissioners ⁴have the same right as the Surveyor to require the

Rectifica-
tion of
assess-
ments.

¹ See below.

² 43 & 44 Vict. c. 19, s. 56.

³ Except where they are specially authorized to do so, no assessment delivered to the General Commissioners is to be altered by them, except in case of, and upon, appeal. 43 & 44 Vict. c. 19, s. 57. See *post*, p. 216.

⁴ 5 & 6 Vict. c. 35, s. 75.

Chap. III. overseers of any parish to produce the rate books, and ¹to inspect the rate books, and take copies of, or extracts from, them; and, if the Surveyor alleges that the assessments have not been properly made, ²they may summon Assessors and overseers before them, and examine them on their oaths.

Omissions from First, or Additional First, Assessments, how dealt with.—³An omission discovered by the Surveyor within the year following the year for which the person liable ought to have been charged, may be rectified by the Surveyor charging such person, and giving notice to him of the charge and the particulars thereof, and certifying to the General Commissioners the particulars of the omission and charge. The Commissioners, upon oath being made by the Surveyor, or other credible witness, of the service of the notice, sign and allow the certificate. The certificate must, however, be delivered to the General Commissioners, or to their Clerk, within the year following the year of assessment. ⁴The person charged may, however, within ten days after receiving the notice, make an amended return, or give notice in writing to the Surveyor that he abides by the former return (if any) made by him, accompanying the same with a declaration, signed and attested, containing

Surcharge
by Sur-
veyor.

¹ 5 & 6 Vict. c. 35, s. 76.

² 5 & 6 Vict. c. 35, s. 75.

³ 43 & 44 Vict. c. 19, s. 63.

⁴ 43 & 44 Vict. c. 19, s. 64.

the particulars prescribed by the ¹Taxes Management Act, 1880. The Surveyor may object to the return, or amended return; or may certify his satisfaction to the General Commissioners. In the former case the Surveyor must give notice of his objection to the person charged, and certify the return, or the amended return, and the cause of his objection, to the General Commissioners, who must thereupon cause the assessment to be made upon the Surveyor's certificate of objection, and allow no abatement, except on the ²appeal of the person charged. ³To make a false declaration in this respect is a misdemeanour, and the penalty imprisonment for a period not exceeding six months, and a fine not exceeding treble the amount of duty charged.

Chap. III.
Surveyor's
certificate
of objec-
tion to
supple-
mentary
return.

Apportionment of Assessment by General Commissioners in Case of Divided Occupation.—⁴If after the assessment the land, &c., which is the subject of it comes to be divided into two or more distinct occupations, the General Commissioners have power to apportion the duty among the occupiers upon the appeal of the parties interested.

Assessment of Railways by the Special Commissioner.
—⁵The annual value of, or profits or gains arising

¹ 43 & 44 Vict. c. 19.

² As to the mode of appealing, see *post*, pp. 215—219, 223.

³ 43 & 44 Vict. c. 19, s. 66.

⁴ 23 & 24 Vict. c. 14, s. 4.

⁵ 23 & 24 Vict. c. 14, s. 5.

Chap. III. from, any railway are, ¹as we have said, assessed by the Special Commissioners. The mode of assessment by the Special Commissioners ²will be described when we treat of duties payable under Schedule D. The Special Commissioners, upon making an assessment upon any railway company, notify the amount of the assessment to the secretary or other officer of the company upon whom the assessment is made.

Time when Duties become payable.—Duties of income tax, except such as are payable by way of deduction, or are assessable in respect of ³railways, ⁴generally become payable on the 1st of January in the year for which the duties are charged; but duties of income tax included in any assessment signed and allowed on or after any such 1st of January become payable on the day after that on which the assessment is signed and allowed. Duties payable by way of deduction ⁵must be deducted out of the sums in respect of which they are charged at the times when such sums become payable.

¹ See *ante*, p. 116.

² See *post*, pp. 187, 188.

³ As to when duties assessed on railways become payable, see *post*, p. 155.

⁴ 43 & 44 Vict. c. 19, s. 82.

⁵ 5 & 6 Vict. c. 35, s. 158.

SUB-SECTION II.—COLLECTION.¹

Proceedings after Assessment in order to the Collection of the Duties.—As soon as any assessments of income tax are signed and allowed by the General Commissioners, and ²the time for hearing appeals has expired, the Clerk to the General Commissioners prepares ³two duplicates of every assessment, in the prescribed form, which are then signed and sealed by the General Commissioners. One of the duplicates is handed by the Commissioners to the Collector of the parish for which the assessment is made, with a warrant for collecting the duty. The other duplicate is delivered to the Surveyor of the district. ⁴Assessments not made, or against which any appeal is depending, when the first assessments are signed and allowed, when made, or determined, are included in a separate form of assessment and duplicate, and then collected in the same manner as the duties charged by the first assessments. When the duties become payable, ⁵the Collector demands the sums

Duplicates
of assess-
ment.

¹ Sect. 9 of the Taxes Management Act, 1880 (43 & 44 Vict. c. 19), contains a general saving of all powers for recovery of income tax contained in the Acts relating to income tax then in force, in cases not provided for by that Act, and so far as the same are not inconsistent with the express provisions of that Act.

² As to the time for hearing appeals, see *post*, p. 216.

³ 43 & 44 Vict. c. 19, s. 83.

⁴ 43 & 44 Vict. c. 19, s. 84.

⁵ 43 & 44 Vict. c. 19, s. 85.

Chap. III. from the persons charged with the same, and upon payment he gives a receipt in ¹the prescribed form.

Cases in which Persons chargeable may deduct Sums paid by them for Duty from Payments made by them.—

It will be convenient to mention here the cases in which persons charged with duty under Schedule A. are authorized to deduct the whole, or part, of what is paid by them for duty from payments which they make to others, and so become in some sense collectors of the duty from the persons ultimately liable thereto. The cases referred to are the following:—

First case: 1. ²Where the occupier, not being the owner, of any lands, tenements, or hereditaments, pays the duties assessed upon such lands, &c., he may deduct out of the next rent payable to the landlord so much of what he has paid for duty as a rate upon the rent payable equivalent to the rate of duty charged would amount to. But the whole sum to be deducted from the rent must not exceed the sum actually paid for duty by the occupier. ³If the rate of income tax has varied during the period for which the rent is paid, so that the amount to be deducted cannot be calculated, except by taking a proportionate amount

Occupier of lands, &c. deducts out of rent payable to landlord amount of duty thereon.

¹ That is, the form prescribed by the Board. 43 & 44 Vict. c. 19, ss. 5, 15 (3). The receipt is not liable to stamp duty, *ante*, pp. 41, 42.

² 5 & 6 Vict. c. 35, s. 60, No. 4, r. 9; 16 & 17 Vict. c. 34, s. 40. As to the cases in which occupiers are chargeable for owners, see *ante*, pp. 125—127.

³ 27 & 28 Vict. c. 18, s. 15.

of several rates of income tax, such proportionate amount may be deducted from the rent by the occupier. ¹A mortgagee in possession, not in actual occupation of the land, &c. mortgaged, is liable to the same deduction as any other landlord would be. Chap. III.

2. ²A mortgagee in possession, and in actual occupation of the lands, &c. mortgaged, in the settlement of accounts between himself and the mortgagor, must allow the duty payable in respect of the amount of interest due upon such mortgage, as so much interest received by him on account of such interest. ³The provision we have just quoted for the case of a variation in the rate of income tax applies here, so that if the income tax has varied during the period through which the interest has accrued a proportionate amount of the several rates of income tax chargeable must be allowed. Second case: Mortgagee in possession and in actual occupation of lands, &c. mortgaged must allow duty on interest in accounts between himself and mortgagor.

3. ⁴Every person liable to the payment of any rent, or any yearly interest of money, or any annuity or other annual payment, as a charge on any property, whether the same is payable half-yearly, or at any shorter or more distant periods, is authorized, on making such payment, to deduct thereout the amount of the rate of duty payable at the time when such payment becomes due; and the person to whom such payment is to be made must allow such deduction upon penalty of a forfeiture of 50% for refusing Third case: Persons liable to pay rent, yearly interest, annuity, &c. may deduct duty thereon.

¹ 5 & 6 Vict. c. 35, s. 60, No. 4, r. 11.

² 5 & 6 Vict. c. 36, s. 60, No. 4, r. 11.

³ 27 & 28 Vict. c. 18, s. 15.

⁴ 16 & 17 Vict. c. 34, s. 40.

Chap. III. to do so. But the sum deducted must not be greater than the amount of the duty actually paid.

¹The provision above mentioned for the case of a variation in the rate of income tax applies to the cases we are now considering.

Fourth case :
Persons paying "Drainage Advances Acts" may deduct one-third of the duty thereon.

4. ²Any person paying any rentcharge under the ³"Drainage Advances Acts" may from time to time deduct thereout, in respect of the duty chargeable, one-third part of the sum which the rate of such duty, computed on such rentcharge, amounts to ; and the deduction must be allowed by the receiver and collector of the rentcharge upon receipt of the residue of the rentcharge then due.

Fifth case :
Owner of lands subject to rentcharge in lieu of tithes, &c. may deduct duty thereon.

5. ⁴When any lands, &c., are subject to the payment of any rentcharge under the ⁵Act passed for the Commutation of Tithes, or otherwise, or any annuity, fee farm rent, rent service, quit rent, stipend to any licensed curate, or other rent or annual payment charged thereon, the owner, not being the occupier, if he has allowed to the occupier any de-

¹ 27 & 28 Vict. c. 18, s. 15.

² 16 & 17 Vict. c. 34, s. 42. Although sect. 15 of 27 & 28 Vict. c. 18, in terms applies only to cases within the 40th section of 16 & 17 Vict. c. 34, reason would seem to prescribe the application of the provision made by the first-named section to this case of a rentcharge under the Drainage Advances Acts.

³ 9 & 10 Vict. c. 101 ; 10 & 11 Vict. c. 11 ; 11 & 12 Vict. c. 119 ; 13 & 14 Vict. c. 31 ; 19 & 20 Vict. c. 9.

⁴ 5 & 6 Vict. c. 35, s. 60, No. 4, r. 10. We may repeat here, *mutatis mutandis*, the observation made above, note ².

⁵ 6 & 7 Will. IV. c. 71.

duction from his rent in respect of duty paid by him under Schedule A., and the owner, being also the occupier, may deduct out of every such rent-charge, &c., a proportionate part of the duty; and such deduction must be allowed by the person receiving, or entitled to, the rentcharge, &c. Chap. III.

¹If any person refuses to allow any deduction authorized to be made out of any payment of annual interest of money lent, or other debt bearing annual interest, secured by mortgage or otherwise, he forfeits for every such offence treble the value of the principal money or debt; and if any person refuses to allow any deduction authorized to be made out of any rent or other annual payment before mentioned, he forfeits the sum of 50*l*. All contracts, covenants, and agreements, made for payment of any interest, rent, or other annual payment aforesaid, without allowing such deduction, are void. Penalties for refusing to allow deduction.

A tenant, who had been assessed, and had paid income tax under Schedule A. in respect of land occupied by him, claimed to make the deduction from his next payment of rent. The landlord was not in fact liable to be assessed. Case of *Swatman v. Ambler*.

¹ 5 & 6 Vict. c. 35, s. 103. If a tenant does not deduct the property tax paid by him from the next rent, he cannot afterwards recover it as money paid; but if the tenant abstains from deducting the tax upon the promise of the landlord to repay the amount of the tax, there is a good consideration for the promise, and the tenant may sue upon it. *Lamb v. Brewster*, L. R., 4 Q. B. D. 220; 48 L. J., Q. B. 421; 40 L. T. 537; 27 W. R. 478.

Chap. III.

He had, before the payment of the tax by the tenant, claimed exemption, and the exemption was, but subsequently to the payment, allowed. It was held that the tenant had nevertheless a right to make the deduction from his rent. *Sicatman v. Ambler*, 24 L. J., Ex. 185.

Case of
Edmonds
v. *East-*
wood.

A lessee of land for a term of years had power to dig brick earth and make and sell bricks. He paid (1) for surface rent 17*l.* 10*s.* a year; (2) for royalty, or brick rent, 100*l.* a year; (3) for every 1,000 bricks above the first million made in any year 2*s.* It was held, that the lessee was assessable under Schedule A. in respect of all three kinds of rent, and might make the deduction from his rent. *Edmonds v. Eastwood*, 27 L. J., Ex. 209.

Cases of
Taylor v.
Evans, and
Foley v.
Fletcher.

A coal-mine was sold upon terms that the purchaser should pay the purchase-money by half-yearly instalments, which varied according to the amount of coal gotten, the minimum instalment being 150*l.* a year. It was held, that the purchaser was not entitled to make the deduction from the instalments payable by him. *Taylor v. Evans*, 25 L. J., Ex. 269. A somewhat similar case was *Foley v. Fletcher*, 28 L. J., Ex. 100.

Case of
A.-G. v.
Shield.

S. enjoyed an annuity charged upon real property, which was to be paid "free and clear of all taxes and assessments." He refused to allow the owner of the property to make any deduction from the annuity. S. was held liable

to the penalty imposed by the Income Tax Chap. III.
 Acts for refusing to allow the deduction of
 income tax authorized by those Acts from
 "rents or annual payments." *Attorney-General*
v. Shield, 28 L. J., Ex. 49.

Section 103 of 5 & 6 Vict. c. 35 does not Case of
Festing v.
Taylor.
 apply to rentcharges granted by will; so that,
 if a testator by his will grants a rentcharge to
 be paid free of income tax, the annuitant is
 entitled to have the full amount paid to him,
 without the tax being deducted. *Festing v.*
Taylor, 32 L. J., Q. B. 41.

If Payment of Duty is refused—Remedy by Distress.—If any person charged refuses to pay the duty on demand made, the Collector ¹must distrain upon the premises charged with the duty, or must distrain the person charged by his goods and chattels; for which he requires no other authority than ²the warrant delivered to him upon his appoint-

¹ 43 & 44 Vict. c. 19, s. 86. The Crown's right of distress is universal (per James, L. J., *In re W. J. Henley & Co.*, 26 W. R. 885), and therefore the statute provides that the distress may be either upon the premises charged, or upon the goods and chattels of the person charged, which may be elsewhere than upon the premises. The section above referred to adds, "and upon all such other goods and chattels as the Collector is hereby authorized to distrain," words which may have an application in cases of goods taken in execution, or seized by virtue of any process, or assignment; see below.

² See *ante*, p. 33.

Chap. III. ment. ¹For the purpose of levying a distress in such a case, the Collector may, if necessary, obtain a warrant from the General Commissioners, authorizing him to break open, in the daytime, any house or premises, calling to his assistance any constable, or other peace officer, for the parish; but such last-mentioned warrant must be executed by, and in the presence of, the Collector. ¹Every distress levied by a Collector must be kept by him for five days, at the cost of the person refusing to pay; and, if the duty is not paid within the five days, the distress must be appraised, that is, a value must be set upon it, by two inhabitants of the parish, or other sufficient persons, and then sold by public auction by the Collector, or his deputy. If anything remains of the proceeds of sale, after deducting the duty, and the cost of taking, keeping, and selling, the distress, it is restored to the owner. ²If, at the time any duty of income tax becomes in arrear, any goods or chattels belonging to the person charged are taken in execution, or are seized by virtue of any other process, except at the suit of a landlord for rent, or by virtue of any assignment, the person by whom the goods, &c., are so taken or seized must pay to the Collector all arrears of duty due at the time of execution, or seizure, or payable for the year in which the same is levied or made, not exceeding one year's duty; and if payment is not made by

Goods
taken in
execution,
&c., in-
come tax
being in
arrear.

¹ 43 & 44 Vict. c. 19, s. 86.

² 43 & 44 Vict. c. 19, s. 88.

him the Collector must distrain, and sell, the goods, Chap. III. &c., as if no such execution, or seizure, had been levied, or made.

If Payment of Duty is refused—Remedy by Committal of Defaulter.—¹If any duty of income is not paid within ten days after demand, and no sufficient distress is to be found, the General Commissioners may by warrant under their hands and seals commit the person refusing to pay to prison, there to be kept without bail until payment is made, or security given for payment, of the duty, and of the cost of apprehending and conveying the defaulter to prison. ²Any person so imprisoned may be liberated upon the warrant of the General Commissioners, issued to the keeper of the prison, by the direction of the Treasury, or the Board.

If Payment of Duty is refused—Remedy by Suit in the High Court.—³The duties when assessed may be recovered, with full costs of suit and all charges attending the same, from the person charged therewith, by suit in the High Court, as a debt due to the Crown; or by any other means by which any debt of record, or otherwise due to the Crown may at any time be sued, or prosecuted, for, or recovered;

¹ 43 & 44 Vict. c. 19, s. 89.

² 43 & 44 Vict. c. 19, s. 91.

³ 43 & 44 Vict. c. 19, s. 111.

Chap. III. as well as by the summary means before described.

A ¹schedule of arrears certified to the High Court as ²prescribed, and a ³schedule of defaulters purporting to be made in pursuance of the ⁴Taxes Management Act, 1880, and certified to the High Court under the hands of the Board, is sufficient evidence of a debt due to the Crown, and sufficient authority to a judge of the High Court to cause process to be issued against any defaulter named in any such schedule, to levy the sum in arrear and unpaid by the defaulter, and the production of a schedule of arrears or of defaulters purporting to be made in pursuance of the Taxes Management Act, 1880, and purporting to contain the name of a defaulter, is sufficient evidence of the sum mentioned in such schedule having been duly charged and assessed upon such defaulter, and of the same being due and owing, and in arrear, to the Crown.

Proceeding in case the Person charged removes from Place of Assessment.—⁵In case a person charged to any duty of income tax removes from the parish, &c. in which the assessment was made without paying the duty charged upon him, the General Commis-

¹ As to schedules of arrears, see *post*, p. 151.

² That is, in the form prescribed by the Board. 43 & 44 Vict. c. 19, s. 15 (2).

³ As to the schedules of defaulters, see *post*, p. 153.

⁴ 43 & 44 Vict. c. 19.

⁵ 43 & 44 Vict. c. 19, s. 90.

sioners for such parish, &c. sign, and transmit by Chap. III.
the intervention of the Board, a certificate of the
facts to the General Commissioners for the parish, &c.
to which the defaulter has removed, and the last-
mentioned Commissioners raise and levy the duty,
and cause it to be paid to the Collector of Inland
Revenue. If the removal is only from one parish, &c.
within the jurisdiction of one set of Commissioners to
another parish within the same jurisdiction, the
Commissioners authorize the Collector for such last-
mentioned parish, &c., by certificate, to raise and levy
the duty.

Account by Collectors.—¹The Board may appoint in
each year days of receipt for each county, ²division,
parish, or ³group. ⁴On the appointed day, which
will be some day after the 1st of January in every
year, every Collector must account for the full
amount of the duties given him in charge to collect;
but, if required by the Board to do so, he must remit
weekly or oftener to the Exchequer, in anticipation of
the receipt, the amount of his collection, in the manner

¹ 43 & 44 Vict. c. 19, s. 100.

² “Division” means and includes any hundred, rape,
lathe, stewardry, or district, or any place of separate juris-
diction under the Land Tax Acts. 43 & 44 Vict. c. 19, s. 5.

³ “Group” means any parishes united or grouped for the
purposes of collection of the duties of income tax. 43 & 44
Vict. c. 19, s. 5.

⁴ 43 & 44 Vict. c. 19, ss. 100, 101.

Chap. III. prescribed by the Board. He must ¹on the appointed day of receipt (1) produce to the Collector of Inland Revenue, or to the Surveyor, whenever he is required by either of them to do so, his duplicate of assessment, showing the sums collected by him duly written off; (2) pay over to the Collector of Inland Revenue, or otherwise, as, and if so, required to do by the Board, all moneys received by him and then in his hands and unaccounted for; for which he is entitled to receive receipts or discharges; (3) deliver then, or within three days afterwards, to the General ²Commissioners schedules of arrears in the ³prescribed form, with affidavits subscribed, to be made on his oath, or affirmation, and signed by him, setting forth the christian and surname of each defaulter in his parish, or group, from whom he has demanded, but has not then received, payment of the duties given him in charge to collect, and the respective sums then in arrear from each such defaulter. The Collector must also answer any lawful question demanded of him by the Collector of Inland Revenue, or Surveyor, touching the duties given him in charge to collect; and ⁴may be put upon his oath, or made to affirm, if he is a person allowed by law to substitute an affirmation for an oath, by the Collector

Collector on appointed day must,
 1. Produce his duplicate of assessment;
 2. Pay over moneys received, if required;
 3. Deliver schedules of arrears.

¹ 43 & 44 Vict. c. 19, s. 103.

² As to the schedules of arrears, see *post*, p. 151.

³ That is, in the form prescribed by the Board. 43 & 44 Vict. c. 19, s. 15 (2).

⁴ 43 & 44 Vict. c. 19, s. 104.

of Inland Revenue, who is authorized to administer Chap. III.
an oath or affirmation for the purpose. The substance
of the answers given by the Collector to the ques-
tions put to him must be reduced into writing in his
presence, and he must then sign them.

The Schedules of Arrears.—¹The schedule of arrears,
being made, and delivered to the General Commis-
sioners, ²as we have described, remains with them
for forty days, and during that period the Collector
gives notice to the defaulters named in it, who are
at liberty within the same period to pay their arrears
with costs, and have the arrears discharged from the
schedule. If they continue in default, the Commis-
sioners may use any lawful means, within the same
period of forty days, for the recovery of the arrears ;
³but at the expiration of that period the schedule of
arrears may be certified to the High Court by either
the Collector of Inland Revenue, or the General
Commissioners ; ⁴the schedule itself, when so certified,
being transmitted to the Board. The Board, again,
on receiving the schedule of arrears, may direct the
Collector to use any method allowed by law for the
recovery of any arrears therein included ; but other-
wise they forward the schedule to the High Court,
certifying it under their hands ; ³and the schedule so

¹ 43 & 44 Vict. c. 19, s. 105.

² *Ante*, p. 150.

³ 43 & 44 Vict. c. 19, s. 111.

⁴ 43 & 44 Vict. c. 19, s. 106.

Chap. III. certified to the High Court by the General Commissioners and by the Board is sufficient evidence of a debt due to the Crown, and sufficient authority to a judge of the High Court to cause process to be issued against any defaulter named in the schedule to levy the sum in arrear, and unpaid by him.

Schedules of Deficiencies.—Besides the schedule of arrears, which he is bound to return, ¹every Collector must also make out a schedule of deficiencies, which is to contain the names, surnames, and places of abode, of all persons within his district of collection from whom he has not been able to collect the duties for any of the following causes, viz. :—

First
cause :
Bank-
ruptcy of
defaulter.

1. That the defaulter became bankrupt before the day on which the duties became payable, and had not goods and chattels sufficient whereon to levy such duties within the district of collection, at any time since the duties became payable.

Second
cause :
Removal
of de-
faulter.

2. That the defaulter removed from the district of collection before the day on which the duties became payable, without leaving therein goods and chattels sufficient as aforesaid.

Third
cause :
That de-
faulter has
no goods
and
chattels.

3. That there were not, nor are, any goods and chattels of the defaulter whereon the duties, or any part thereof, might, or may, be levied.

An oath or affirmation is indorsed, and certified, on the schedule, that the sum for which the defaulter

¹ 43 & 44 Vict. c. 19, ss. 108, 109.

is returned in default is due, and wholly unpaid, **Chap. III.**
either to the Collector, or to any other person for the
Collector, to the best of the knowledge and belief of
the Collector; and that the return is made for one or
other of the causes above mentioned; and the schedule
must contain, besides the particulars aforesaid, the
particular reason for returning the defaulter, and the
particulars of the sum or sums charged upon him.
The oath, or affirmation, indorsed upon the schedule
is made, or subscribed, by the Collector.

Schedules of Discharge and Default.—¹The General
Commissioners, after examining the Collector upon
oath, or affirmation, (1) ascertain the sums, which
according to the ²Income Tax Acts, or the ³Taxes
Management Act, 1880, have been, or may be, dis-
charged for a cause specially allowed by such Acts,
and make out their schedules of discharge containing
such sums; (2) make out their schedules of defaulters
containing (a) the sums with which each defaulter
ought to be charged, and the particulars thereof;
and (b) the sums which have not been collected by

¹ 43 & 44 Vict. c. 19, ss. 108, 109.

² "Any Act, or part of any Act, relating to the assess-
ment of any person, land, tenement, heritage, property, or
profits whatsoever, to the income tax." 43 & 44 Vict. c. 19,
s. 5. The phrase used in the place under reference is "the
Tax Acts," the definition of which includes the definition
above given of "Income Tax Acts."

³ 43 & 44 Vict. c. 19.

Chap. III, reason of the Collector's neglect, and ¹for which he shall be held liable, and ²which ought to be reassessed on the parish. The schedules so made out by the General Commissioners are transmitted to the Board, and deposited at their head office.

Insurers.—³In case there is a failure on the part of the persons responsible for doing any of the following acts, viz.:—

1. Assessing the duties in any parish⁴—
2. Returning the duplicates of the assessments ⁵of the duties made for any parish—
3. Raising or paying the several sums charged upon any person for the duties in any parish⁶—to do any of them, the Board may at any time after such failure, set *insuper* (as it is called) all sums appearing in arrear, and make a return by certificate thereof to be delivered to the ⁷Queen's Remembrancer. The return must specify ⁸certain particulars; and any

¹ See 43 & 44 Vict. c. 19, s. 112 (3).

² See 43 & 44 Vict. c. 19, s. 112 (4), and *post*, p. 155.

³ 43 & 44 Vict. c. 19, s. 112.

⁴ As to assessment, see Chap. III., sub-sect. 1.

⁵ See *ante*, p. 139.

⁶ This default would be on the part either of Collectors or persons charged with duty.

⁷ The "Queen's Remembrancer" is an officer of the Supreme Court for revenue purposes.

⁸ See 43 & 44 Vict. c. 19, s. 112. The particulars to be specified are—(1) the parish, division, and county where the failure has happened; (2) the cause of such failure; (3) the names of any two or more of the General Commissioners

persons charged with the duties who may be in default are liable to process; and, in the case of a parish set *insuper* for a sum not accounted for to the Collector of Inland Revenue, and contained in the duplicate of assessment delivered to him, the parish is liable to be re-assessed, except when by special enactment relieved from liability to re-assessment.¹

Collection of Duties of Income Tax assessed upon Railways.—²The duties assessed upon railway companies in England are paid by four quarterly payments, namely, the first quarterly payment on or before the 20th day of June; and the second, third, and fourth quarterly payments, on or before the 20th days of September, December, and March, respectively, in each year. The duties upon railway companies are assessed by the Special Commissioners, who, when authorized to make, sign, or allow, any assessment, have all the powers and authorities in

for the division in which the failure has happened; (4) the names of the Assessors, and Collectors, and the several persons belonging to such parish charged with the duties, who have failed to pay them.

¹ No parish is answerable for the acts, neglects, or defaults of a Collector appointed by the Board, or who gives security to the Crown. 43 & 44 Vict. c. 19, s. 79 (1), *ante*, p. 37.

² 43 & 44 Vict. c. 19, s. 95. We have, for convenience sake, mentioned the assessment of railway companies in England at this place, but it appears from the enactment just quoted that such assessment is now made under Schedule D.

Chap. III. relation to assessment, appeal, collection of duty,
— which the General Commissioners have.

SECTION II.—SCHEDULE B.

ASSESSMENT AND COLLECTION.¹

What we have said of the assessment and collection of duties charged under Schedule A. is equally applicable, *mutatis mutandis*, to duties charged under Schedule B.

SECTION III.—SCHEDULE C.

This schedule, it must be remembered, comprises interest, annuities, and dividends, payable out of public revenue. The annuities, &c., are paid through certain persons, or corporations, entrusted with the duty of paying the same, who are directed to deduct the tax from the annuity, &c., before paying it to the person entitled. Those mentioned in the ²Income Tax Act, 1842, and in the second section of the Act 5 & 6 Vict. c. 80 (and the list is no doubt an exhaustive one) are ³The Bank of England, ⁴The Commissioners for Reduction of the National Debt, ⁵The Bank of

¹ See note ¹, p. 139, *ante*.

² 5 & 6 Vict. c. 35.

³ 5 & 6 Vict. c. 35, s. 89.

⁴ *Ibid*.

⁵ 5 & 6 Vict. c. 35, s. 90. This section was repealed by the Statute Law Revision Act, 1874, No. 2 (37 & 38 Vict. c. 96), but see 16 & 17 Vict. c. 34, s. 11.

Ireland, ¹persons entrusted with the payment of annuities, &c., payable out of the revenue of any colony or settlement, ²persons entrusted with the payment of annuities, &c., payable out of the revenue of any foreign state, or acting therein as agents, or in any other character, and ³the Exchequer or other public office. The methods of assessing, and collecting, the duties under Schedule C. may conveniently be described together. They differ, as will be seen, very materially from the methods employed to assess, and collect, the duties under Schedules A. and B.

ASSESSMENT AND COLLECTION.⁴

Who are Commissioners for Assessing the Duties under Schedule C.—⁵The Special Commissioners whom we now proceed to mention, are, with reference to the duties placed under their jurisdiction, respectively, the Commissioners appointed to act in all matters relating thereto, ⁶but they have no power to summon any person to be examined before them. All enquiries by, or before, such Special Commissioners

¹ 5 & 6 Vict. c. 35, s. 96.

² 5 & 6 Vict. c. 80, s. 2.

³ 5 & 6 Vict. c. 35, s. 97.

⁴ See note ¹, p. 139, *ante*.

⁵ 5 & 6 Vict. c. 35, s. 23.

⁶ The Special Commissioners have this power when acting as General Commissioners (see *ante*, p. 18), or on appeal, as in certain cases arising under Schedule D. (see *post*, pp. 225, 241). 5 & 6 Vict. c. 35, s. 23.

Chap. III. are answered by affidavit, taken before one of the General Commissioners in his district.

Annuities, &c. payable by the Bank of England.—The Governor and Directors of the Company of the Bank of England ¹are, as ²we have said, Commissioners for the purpose of assessing and charging the duties payable under the ³Income Tax Acts in respect of all annuities payable to the company at the receipt of the Exchequer, and the profits attached to the same and divided amongst the several proprietors, and in respect of all annuities, dividends, and shares of annuities, payable out of the revenue of the United Kingdom, and entrusted to the said Governor and Company for payment, ⁴including dividends paid upon coupons attached to stock certificates issued under the ⁵National Debt Act, 1870. ⁶As often as payments become due upon the said annuities, &c., true accounts are made out in writing at the bank in books provided for the purpose, of the annuities (with the profits attached to the same) which are paid to the said company in respect of its corporate stock, and of the annuities, &c., entrusted to the com-

¹ 5 & 6 Vict. c. 35, s. 24.

² See *ante*, pp. 6, 7.

³ Any Act, or part of any Act, relating to the assessment of any person, land, tenement, heritage, property, or profits whatever, to the income tax.

⁴ 33 & 34 Vict. c. 71, s. 36.

⁵ 33 & 34 Vict. c. 71.

⁶ 5 & 6 Vict. c. 35, s. 89.

pany for payment, and of the amount of duty charge- Chap. III.
able thereon. In these books the separate account
of each person entitled to any share of the said
annuities, &c., is distinguished, so that each such
share may be distinctly assessed; and the Governor
and Directors of the Company of the Bank of Eng-
land, acting in their capacity as such Commissioners
as aforesaid, make an assessment of the duty which
appears to be payable on such accounts to the best of
their judgment, and then deliver the books of assess-
ment, signed by them, to the ¹Commissioners for
Special Purposes. ²The last-named Commissioners
cause two certificates on parchment to be made out
under their hands and seals, containing the total
amounts of duty, and of the annuities, &c. upon
which the duty is charged, contained in each assess-
ment, and transmit one of such certificates to the
Governor and Directors of the Company, as Commis-
sioners for making the assessment, and the other
certificate to the ³Head Officer of Inland Revenue.
⁴The Governor and Directors of the Bank of England,
on receiving notice from the Special Commissioners
by certificate of the amount of each assessment, set
apart and retain the amount of duty so assessed from
each annuity, &c., before paying the same to the

¹ That is, the Board, and such persons as the Treasury appoint. *Ante*, pp. 5, 6.

² 5 & 6 Vict. c. 35, s. 89.

³ The Receiver-General of Inland Revenue.

⁴ 5 & 6 Vict. c. 35, s. 93.

Chap. III. person entitled, who ¹is bound to allow what is so set apart and retained under penalty of a forfeiture of fifty pounds; and ²all moneys so set apart and retained are paid into an account kept at the Bank of England with the Receiver-General of Inland Revenue.

Annuities, &c. payable by the Bank of Ireland.—The Governor and Directors of the Company of the Bank of Ireland ³are Commissioners for assessing and charging the duties payable under the ⁴Income Tax Acts in respect of all annuities, dividends, and shares of annuities, payable by them out of the revenue of the United Kingdom. ⁵The duties chargeable upon such annuities, &c., are assessed and charged by the Governor and Directors of the Company of the Bank of Ireland, communicated to the ⁶Special Commissioners certified by them, and afterwards set apart and retained, and paid into the account kept at the

¹ 5 & 6 Vict. c. 35, s. 103.

² 5 & 6 Vict. c. 35, s. 94; 12 & 13 Vict. c. 1, s. 17.

³ 16 & 17 Vict. c. 34, s. 11.

⁴ Any Act, or part of any Act, relating to the assessment of any person, land, tenement, heritage, property, or profits whatever, to the income tax.

⁵ 5 & 6 Vict. c. 35, ss. 91, 93, 94. Sect. 91 is repealed by the Statute Law Revision Act, 1874, No. 2 (37 & 38 Vict. c. 96), but the exemption of persons resident in Ireland from liability to the duties under this schedule is abrogated by 16 & 17 Vict. c. 34, s. 11.

⁶ The Board, and such persons as the Treasury appoint. *Ante*, pp. 5, 6.

Bank of England with the Receiver-General of Chap. III.
Inland Revenue, in a manner precisely similar to
¹that in which the duties chargeable upon annuities,
&c. entrusted for payment to the Bank of England
are dealt with.

Annuities payable by the Commissioners for the Reduction of the National Debt.—The Commissioners for the Reduction of the National Debt ²are, as ³we have said, Commissioners for assessing and charging the duties payable under the ‘Income Tax Acts in respect of all annuities payable by them out of the revenue of the United Kingdom. The duties chargeable upon such annuities ⁵are assessed and charged by the Commissioners for the Reduction of the National Debt, communicated to the Special Commissioners, certified by them, and afterwards set apart and retained, and paid into the account kept at the Bank of England with the Receiver-General of Inland Revenue in a manner precisely similar to ¹that in which the duties charged upon annuities, &c. entrusted for payment to the Bank of England are dealt with by them.

¹ See *ante*, pp. 158—160.

² 5 & 6 Vict. c. 35, s. 28.

³ *Ante*, p. 7.

⁴ Any Act, or part of any Act, relating to the assessment of any person, land, tenement, heritage, property, or profits whatever, to the income tax.

⁵ 5 & 6 Vict. c. 35, ss. 89, 94; 12 & 13 Vict. c. 1, s. 17.

Chap. III. *Annuities payable out of the Public Revenue of any Colony, &c.*—¹The Special Commissioners are Commissioners for assessing the duties in respect of annuities, dividends, and shares of annuities, payable ²out of the revenue of any foreign state, or ³out of the public revenue of any colony, or settlement, belonging to the Crown of the United Kingdom, which are entrusted for payment to any person

¹ The Board, and such persons as the Treasury appoint. *Ante*, p. 6, 7.

² 5 & 6 Vict. c. 35, ss. 29, 96; 5 & 6 Vict. c. 80, s. 2. A somewhat extended application is given to these sections by 29 & 30 Vict. c. 36, s. 9; and by 48 & 49 Vict. c. 35, s. 26, the two last mentioned are to be read as if they included amongst the persons entrusted with the payment of such dividends—(a) any banker, or person acting as a banker, who sells or otherwise realizes, coupons or warrants for, or bills of exchange purported to be drawn or made in payment of, any dividends (save such as are payable in the United Kingdom only), and pays over the proceeds to any person, or carries the same to his account; (b) any person who, by means of coupons received from any other person, or otherwise on his behalf, obtains payment of any dividends elsewhere than in the United Kingdom; (c) any dealer in coupons who purchases coupons for any dividends (save such as are payable in the United Kingdom only) otherwise than from a banker or person acting as a banker, or another dealer in coupons. And a person entrusted with the payment of dividends, who performs all necessary acts, so that the income tax thereon may be assessed and paid, is entitled to receive as remuneration an allowance of so much (not being less than threepence) in the pound of the amount paid as may from time to time be fixed by the Treasury. But no banker is to be obliged to disclose any particulars relating to the affairs of any person on whose behalf he may be acting.

³ 5 & 6 Vict. c. 35, s. 96.

other than the Governor and Company of the Bank of England and the Commissioners for the Reduction of the National Debt; and every such person entrusted with the payment of any such annuities, &c., must deliver into the Head Office of Inland Revenue in England an account in writing, containing the names and residences of the persons to whom such annuities are payable, and a description of such annuities, &c., within one month after the accounts have been required by public notice in the London Gazette; and must also, on demand by the inspector appointed for that purpose by the Board, deliver to him for the use of the Special Commissioners true accounts of the amounts of the annuities, &c. payable by him. The Special Commissioners assess the duties upon such annuities, &c., and give notice of the assessment to the persons entrusted with payment of the annuities, &c., who must pay the duties thereon on behalf of the persons entitled thereto, out of the moneys in their hands, into the account kept at the Bank of England with the Receiver-General of Inland Revenue, under a penalty of 100% over and above the duties charged, for payment of which they are also personally answerable, and are acquitted of the duties paid by them ¹ as in the case of annuities paid by the Bank of England.

Interest payable out of the Public Revenue on Securities issued at the Exchequer or other Public Office.—

¹ *Ante*, pp. 158—160.

Chap. III. ¹The Commissioners for assessing the profits of offices in the Exchequer, or other public office, ²are Commissioners also for assessing the duties upon any interest payable out of the public revenue on securities issued at the Exchequer, or other public office. They act in that capacity in the same manner as ³the Commissioners who assess the profits arising from annuities payable out of the public revenue in other cases. The Commissioners authorized to act in relation to such securities as aforesaid appoint Assessors, and Collectors, of the duties arising from such securities from amongst the officers entrusted with the payment or discharge of such securities; and the Assessors, and Collectors, so appointed compute the duties upon the securities at the time the same are paid or discharged; and after computation of the duties enter the same in a certificate of assessment, and certify the same to the proper officer appointed for the payment or discharge of such securities. Such last-mentioned officer is empowered to stop and detain the duty, and to pay the same into the Bank of England, to the credit of the Receiver-General of Inland Revenue, in discharge of the assessment. Every person receiving, or purchasing, any such security, in circulation, with current interest thereon, is entitled to deduct from such interest the proportion of duty which will become chargeable thereon, as if the interest were then due, and charged

¹ *Ante*, pp. 7, 8.

² 5 & 6 Vict. c. 35, s. 97.

³ *Ante*, pp. 158—161.

with the said duty. ¹The penalty for not allowing **Chap. III.**
any such deduction is the same as in other cases of
payment of interest.

Small Annuities, &c.—The following general provision with regard to annuities, dividends, or shares of annuities, the half-yearly payment on which does not amount to 50s., must be noticed, viz. :—²that the respective Commissioners for assessing annuities, &c. chargeable under Schedule C. are not required to make any assessments upon such small annuities as above mentioned, but they must be accounted for, and charged, under the ³third case of Schedule D., by which profits of an uncertain value are directed to be charged, ⁴except in the case of dividends payable upon coupons annexed to stock certificates issued under the ⁵National Debt Act, 1870, from which income tax is to be deducted, although the dividend represented by the coupon does not amount to 50s.

Time for Payment.—The duties under Schedule C. being payable by way of deduction, ⁶are not governed by the general rule, under which duties payable otherwise than by deduction become payable on the

¹ *Ante*, p. 143.

² 5 & 6 Vict. c. 35, s. 95.

³ *Ante*, pp. 107, 108.

⁴ 33 & 34 Vict. c. 71, s. 36.

⁵ 33 & 34 Vict. c. 71.

⁶ 43 & 44 Vict. c. 19, s. 82.

Chap. III. 1st of January in every year, but ¹must be deducted out of the moneys in respect of which they are charged at the times when such moneys become payable.

SECTION IV.—SCHEDULE D.

This schedule, it will be remembered, is to a large extent, although not exclusively, supplementary to the other schedules; and comprises (1) undertakings in connection with lands, &c., not mentioned in Schedule A.; (2) profits of professions not contained in any other schedule; (3) profits of an uncertain annual value not charged in Schedule A.; (4) income arising from colonial and foreign securities; (5) income arising from colonial and foreign possessions; (6) profits not falling under any of the preceding heads. The provisions, therefore, for the assessment and collection of the duties under this schedule are many and various. We will deal with the provisions for assessment, and the provisions for collection, separately.

SUB-SECTION 1.—ASSESSMENT.

Period for which Assessment made.—²Every assessment is made for the year commencing on the 6th day of April in any year, and ending on the 5th day of April following, each of such days being reckoned inclusively.

¹ 5 & 6 Vict. c. 35, s. 158.

² 43 & 44 Vict. c. 19, s. 48.

Place of Charge.—¹The place in which the duty Chap. III.
is to be charged depends to some extent upon the
character of the person charged, thus:—

1. Every householder *not* a person engaged in any 1. Householder *not*
engaged in trade,
&c.
trade, manufacture, adventure, concern, profession,
employment, or vocation, is charged in the parish or
place in which his dwelling-house is situated—

2. Every person engaged in any trade, &c., is 2. Person engaged
in trade,
&c.
charged in the parish or place in which such trade,
&c., is carried on or exercised—

3. Every person not a householder, and not en- 3. Person not a
householder, and not
engaged in trade,
but having an ordi-
nary residence.
gaged in any trade, &c., who has any place of
ordinary residence, is charged in the parish, or place,
in which he ordinarily resides—

4. Every person not before described is charged in 4. Persons not before
described.
the parish, or place, in which he resides at the time the
general notices (described *ante*, p. 118), are given—
and, in order to ascertain the place of charge, every-
one who delivers a list or statement, as described *ante*,
pp. 119—123, is required to deliver at the same time
a declaration in writing signed by him declaring in
what place he is chargeable; and if he is engaged in
any trade, &c., and, if so, where it is carried on.
But we must supplement what we have said about
the place of charge by noticing the following pro-
visions, viz. :—

1. ¹That where any trade is carried on in Great 1. When trade
carried on
Britain by the manufacture of goods, wares, or mer-

¹ 5 & 6 Vict. c. 35, s. 106.

Chap. III. **in Great Britain.** chandise, the assessment must be at the place of manufacture, though the sale of such goods, &c. is elsewhere.

2. Persons not engaged in trade having two or more residences. 2. ¹That every person not engaged in any trade, &c., who has two or more houses, or places, at which he is ordinarily resident, must be charged in the parish, or place, in which he is ordinarily resident at the beginning of each year, as the year is computed for the purposes of the Income Tax Acts, or in which he comes ordinarily to reside after such general notices as aforesaid are given.

3. Profits arising from foreign or colonial possessions, &c. 3. ²That the duty to be assessed in respect of the profits or gains arising from foreign possessions, or foreign securities, or in "the British plantations in America," or in any other of her Majesty's dominions, may be assessed in that one of the following places—London, Bristol, Liverpool, and Glasgow,—at, or nearest to, which such property shall have been first imported into Great Britain, or at, or nearest to, which the person who has received remittances, money, or value, from thence, and arising from property not imported as aforesaid, resides, as if such duty had been assessed upon the profits or gains arising from trade or manufacture carried on in such one of the said places: Provided that

(a) Profits, &c. arising from foreign, or (a) Whenever the produce, or the profits or gains, arising from such possessions, or securities, shall have

¹ 5 & 6 Vict. c. 35, s. 106.

² 5 & 6 Vict. c. 35, s. 108.

been imported partly into the port of London, and partly into the outports of Bristol, Liverpool, or Glasgow, or shall have been received by any person partly in the City of London, and partly in any of the said outports, within the period of making up the account on which the duty is chargeable, the whole of the duty must be assessed and charged by the Commissioners acting for the City of London.

(b) Whenever such produce, &c., shall have been imported wholly into, or received at, the said outports of Bristol, Liverpool, and Glasgow, and different parts thereof shall have been imported into, or received at, two or more of such outports, the duty chargeable thereon must be assessed and charged in one account at such one of the said places at which the major part in value of such produce, &c., has been so imported or received.

4. ¹That the profits arising from the London Docks, the East and West India Docks, and the Saint Katharine's Dock must be assessed by the Commissioners acting for the City of London.

Who are Commissioners for assessing Duty under Schedule D.—Subject to the right which, as ²we shall presently explain, the person to be charged has of choosing the kind of Commissioners by whom he shall be assessed, and as a general rule ³the General

¹ 5 & 6 Vict. c. 35, s. 109.

² *Post*, p. 186.

³ 5 & 6 Vict. c. 35, s. 22. In certain particulars relating

Chap. III. Commissioners act in all matters relating to the duties in Schedule D.; ¹except in the case of railways, the annual value of, or profits and gains arising from, which, are assessed by the Special Commissioners; and except as follows:—

1. Duties upon profits, &c. of Bank of England assessed by its governor and directors.

1. ²The Governor and Directors of the Company of the Bank of England are Commissioners for assessing and charging the duties in respect of all profits of the company chargeable under Schedule D., and of all pensions and salaries payable by the company, and of all profits chargeable with duty and arising within any office or department under the management and control of the said Governor and Company.

2. Duties upon salaries, &c. payable by Commissioners for Reduction of National Debt assessed by them.

2. ³The Commissioners for the Reduction of the National Debt are in like manner Commissioners for assessing and charging the duties in respect of all salaries and pensions payable in any office or department under their management or control.

3. ⁴The Special Commissioners ⁵are Commissioners

to the assessment of the duties under Schedule D., the Additional Commissioners, or the General Commissioners acting as Additional Commissioners, act. See *post*, pp. 177 *et seq.*

¹ 29 & 30 Vict. c. 36, s. 8.

² 5 & 6 Vict. c. 35, s. 24.

³ 5 & 6 Vict. c. 35, s. 28.

⁴ That is, the Board, and such persons as are appointed by the Treasury. *Ante*, pp. 5, 6.

⁵ 16 & 17 Vict. c. 34, s. 10. Person entrusted with payment in this section has the enlarged meaning given to the same phrase in sect. 96 of 5 & 6 Vict. c. 35, and sect. 2 of 5 & 6 Vict. c. 80. See *ante*, p. 162, note ². 48 & 49 Vict. c. 51, s. 26.

for assessing and charging the duties upon all interest, dividends, or other annual payments, payable out of, or in respect of, the stocks, funds, or shares, of any foreign company, society, adventure, or concern, or in respect of any securities of any such company, &c., and entrusted for payment to any person, corporation, &c., in this country.

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3. Duties upon dividends, &c. payable out of or in respect of stock, &c. of any foreign company, &c. assessed by the Special Commissioners.

4. ¹Subject to a certain power of control in the Treasury (who may determine that in any particular department, not being one of her Majesty's Courts civil, judicial, or criminal, or an ecclesiastical, or commissary, Court, Commissioners shall not be appointed; and how the officers of such department shall be assessed), the Lord Chancellor, the judges, and the principal officer, or officers, of each Court, or public department of office under her Majesty, whether civil, judicial, or criminal, ecclesiastical or commissary, military or naval, respectively, have authority to appoint Commissioners in relation to the offices in each Court, or department, respectively from amongst the officers of each Court, or department of office, respectively. The persons so appointed, or any three or more of them, not in any case exceeding seven, are Commissioners in relation to the offices in each such Court, or department of office, respectively. Where the Commissioners of one department act in relation to any other department, the Assessors, and Collectors, for such other department are ap-

4. Certain duties assessed by the Lord Chancellor, &c.

¹ 5 & 6 Vict. c. 35, s. 30.

Chap. III. pointed from the officers of such last-mentioned department. Notice of the appointment of Commissioners must be given to the Treasury within a certain time; and if no appointment of Commissioners is made within the time limited, of which failure to notify the appointment in due time is conclusive proof, the Commissioners acting in their several districts in relation to the duties upon lands and tenements, on notice of the default being given to them, act also in relation to the duties on offices, and employments of profits exercised within the same districts respectively.

5. Certain duties assessed by the Speaker and principal clerks of the Houses of Parliament, &c.

5. ¹The Speaker, and the principal clerk, of either House of Parliament, the principal, or other, officers in the several counties palatine, and the Duchy of Cornwall, or in any ecclesiastical Court, or in any inferior Court of justice, whether of law, or equity, or criminal, or justiciary, or under any ecclesiastical body or corporation, whether aggregate or sole, appoint Commissioners from amongst the persons executing offices in either House of Parliament, or in their respective departments of office, and the persons so appointed, or any three of them, not in any case exceeding seven, are Commissioners in respect of the places, offices, and employments of profit, in each House of Parliament, and in each such department, respectively. The names of the persons so appointed Commissioners must be transmitted to the

¹ 5 & 6 Vict. c. 35, s. 31.

Treasury within a certain time, and in default Chap. III.
the Treasury appoint Commissioners; or, if the
Treasury make no appointment, the Commissioners
acting in relation to the duties on lands and
tenements in their several districts, on notice of the
default being given to them, act in relation to the
duties on such offices, or employments of profit,
exercised within the same districts respectively. ¹If
in any Court, or department of office, there are not a
sufficient number of officers proper to be appointed
Commissioners, the Treasury may direct that the
Commissioners for any other department may act;
and in default of both appointment and direction the
General Commissioners in their respective districts
act.

*Where the Assessment is made by the General Com-
missioners or by the Special Commissioners at
the Request of the Person chargeable.*

Notices, Lists, and Statements, &c.—What we have
said of ²the period for which the assessment is made,
of ³the mode of proceeding to obtain a return, of ⁴the
persons who are required to make out lists, &c., and
of ⁵the proceedings taken by the Assessor after notices
given, in treating of the assessment of the duties

¹ 16 & 17 Vict. c. 34, s. 26.

² *Ante*, p. 129.

³ *Ante*, pp. 118, 119.

⁴ *Ante*, pp. 119—123.

⁵ *Ante*, pp. 128 *et seq.*

Chap. III. under Schedule A., is applicable in the case of the duties in Schedule D. The only qualification that we have to introduce is, ¹that where the General Commissioners acting for any parish, or place, have had inserted in the notice that an office is opened for the receipt of statements of profits chargeable under Schedule D., and a proper person appointed to receive the same, and the time and place of attendance, in that case the statements are to be delivered at, and to, the appointed office, and person; ²and that the statement may be delivered sealed up, if superscribed with the name, and place of abode, of, or place of exercising the profession, or carrying on the trade, by, the person by whom the same is made.

Trade or
profession
carried on
jointly or
in part-
nership.

Where Trade, &c., is carried on by two or more Persons, jointly.—³Where a trade or profession is carried on by two or more persons jointly, the return must be made and stated jointly, and the duty is computed in one sum, and separately from any other duty chargeable on the same persons, or either, or any of them. The partner who is first named in the deed, or other instrument, of partnership, or, if there is no such deed or instrument, the partner who is named singly, or with precedence to the other partner or partners, in the usual style of the partnership, or

¹ 5 & 6 Vict. c. 35, s. 49.

² 5 & 6 Vict. c. 35, s. 110.

³ 5 & 6 Vict. c. 35, s. 100, third rule applying to first and second cases.

if such precedent partner is not an acting partner, Chap. III.
the preceding acting partner, if resident in Great
Britain, must make the return on behalf of himself
and of the other partner, or partners. If no such
partner is resident in Great Britain the return must
be made by the agent, manager, or factor, resident in
Great Britain, for the partners. No separate return
may be made in the case of a partnership by any
partner, except for the purpose of claiming exemption,
or of accounting for a separate concern. ¹If amongst Change
in part-
nership.
any persons engaged in any trade or profession in part-
nership any change takes place in the partnership by
death, or dissolution of partnership, as to all or any
of the partners, or by admitting any other partner
into the partnership, before the time of making the
assessment, or within the period for which the assess-
ment is made, or if any person has succeeded to any
trade, or profession, within the respective periods
aforesaid, the duty is charged according to the profits
and gains of the business derived during the period of
assessment notwithstanding such change, or succes-
sion, unless the partners, or the person succeeding to
the business, can prove to the satisfaction of the Com-
missioners that the profits and gains of the business
have fallen short, or will fall short, from some specific
cause, since the change, or succession, took place, or by
reason thereof. ²Every statement of profits charge- Statement
of profits

¹ 5 & 6 Vict. c. 35, s. 100, fourth rule applying to first and second cases.

² *Ibid.*, fifth rule applying to first and second cases.

Chap. III. able under Schedule D. must include every source chargeable thereunder on the person delivering the statement on his own account, or on account of any other person. But in cases where the same person is engaged in separate partnerships, or in different trades, &c. in more places than one, a separate assessment is made in respect of each trade, &c. at the place where such trade, &c., if singly carried on, ought to be charged. Every statement made on behalf of any other person for which such person is chargeable, or on behalf of any corporation, fellowship, fraternity, company, or society, must include every source of profit chargeable under Schedule D., and must be delivered in the division in which such person, corporation, &c. would be chargeable if acting on his, or their, own behalf.

*Case of
The
Rhyope
Coal Co.*

The Rhyope Coal Company was an ordinary partnership for the purpose of working certain mines in the county of Durham until the 21st December, 1875, when the assets of the company were sold to the Rhyope Coal Company Limited. The shareholders in the new company were the partners in the old; the only change effected being that the old partners were incorporated as a limited company, in which they held the same interests as in the old company, but divided into partially paid up shares. The working of the mines never ceased. It was held that the case was within the fourth rule above stated. It was also held that an extraordinary depression in

trade may be a "specific cause" within the Chap. III.
meaning of the same rule. *Rhyope Coal Com-*
pany v. Foyer, L. R., 7 Q. B. D. 485.

Assessment in Case of Return made by Person chargeable.—If required by the person chargeable the assessment may be made by the ¹Special Commissioners, as we shall presently explain; but otherwise ²the statement is laid before the Additional Commissioners, or the ³General Commissioners acting as Additional Commissioners in their respective districts, who appoint meetings for taking all statements delivered to them into consideration. The Surveyor has power to examine such statements, and the meetings of the Commissioners are appointed within a reasonable time after the examination has been made by the Surveyor. If the Additional Commissioners are satisfied that the statements are *bonâ fide*, and properly made, and if no objection to them is made by the Surveyor, they direct an assessment to be made of the duties chargeable on such statement. The Additional Commissioners ⁴then cause certificates of the assessments made by them to be made out, and entered in books provided for the purpose, and sign the assessments, which are then delivered

¹ That is, the Board, and such persons as the Treasury appoints. *Ante*, pp. 5, 6.

² 5 & 6 Vict. c. 35, s. 111.

³ As to General Commissioners acting as Additional Commissioners, see *ante*, pp. 23, 24.

⁴ 5 & 6 Vict. c. 35, s. 117.

Chap. III. under cover and sealed up, together with the statements made by the persons assessed, to the General Commissioners; and after the expiration of fourteen days from the delivery of the certificates to the General Commissioners, and after notice of such delivery has been given to the Surveyor, the assessments are also delivered to the persons charged. ¹Any person charged, who feels himself aggrieved by an assessment made by the Additional Commissioners, may appeal to the General Commissioners, and of this right of appeal we shall treat ²hereafter. If no appeal is made, and the General Commissioners approve the assessment, ³they confirm the same. If, however, the Surveyor, upon examining the statement made by any person chargeable, objects to the same, and his objection is overruled by the Additional Commissioners, ⁴he may require such Commissioners to state specially, and sign, the case upon which the question arises, together with their determination thereon; and the case, so stated and signed, is delivered to the Surveyor, to be transmitted by him to the General Commissioners for the district, who are bound to return the case so submitted to them, with their answer thereon, with all convenient speed; and the assessment is altered, or confirmed, in accordance with the opinion of the General Commissioners. ⁵And after an assessment has been made by the Additional Commissioners, the

¹ 5 & 6 Vict. c. 35, s. 118.

² See *post*, pp. 234 *et seq.*

³ 5 & 6 Vict. c. 35, s. 122.

⁴ 5 & 6 Vict. c. 35, s. 112.

⁵ 5 & 6 Vict. c. 35, s. 115.

Surveyor may at all reasonable times examine the Chap. III.
same before it has been delivered to the General
Commissioners ; and, if he discovers any error there-
in, which in his judgment requires amendment, he
may certify the same to the Additional Commissioners,
who must, if sufficient cause is shown, amend the
same, as in their judgment the case may require ;
¹or, if they decline to amend the assessment, the
Surveyor may state his objection in writing, and
the Additional Commissioners must then certify the
objection, and their reasons for making the assess-
ment, and any information they have acquired
bearing upon the assessment, to the General Commis-
sioners ; and the Surveyor must give notice to the
person charged, in order that he may appear before
the General Commissioners and support the assess-
ment. The Additional Commissioners are not, how-
ever, bound in every case themselves to make an
assessment ; ²for they may, if they think proper,
deliver to the General Commissioners the case in
writing relative to the statement of the person
chargeable, as it appears to them ; and the General
Commissioners must then enquire into the merits of
the statement, and the assessment is made in accord-
ance with their determination.

Assessment in case no Return is made by the Person chargeable.—³Whenever any person, not otherwise charged to the duties, makes default in delivering

¹ 5 & 6 Vict. c. 35, s. 116.

³ 5 & 6 Vict. c. 35, s. 113.

² 5 & 6 Vict. c. 35, s. 114.

Chap. III. a statement, or delivers a statement with which the Additional Commissioners are not satisfied, or to which the Surveyor has made an objection in writing, or whenever the Additional Commissioners have received any information of the insufficiency of a statement delivered, they must make an assessment upon such person in such sum as, according to the best of their judgment, ought to be charged upon him. Such assessment is subject to appeal, as we shall ¹presently describe.

Amendment of Assessment.—²If the Surveyor discovers that any profits have been omitted from the first assessment, or that any person chargeable has not made a full and proper, or any, return, or has been undercharged in the first assessment, or has obtained any allowance, abatement, or exemption, not authorized, the Additional Commissioners must, at any time after the first assessment has been signed and allowed, but within four months after the expiration of the year to which the first assessment relates, make an assessment on any such person in an additional first assessment in such sum as according to their judgment ought to be charged on such person, subject to objection by the Surveyor, and ¹to appeal.

Enquiries by the General Commissioners.—³Whenever the General Commissioners are dissatisfied with any assessment returned to them by the Additional

¹ *Post*, pp. 234 *et seq.*

³ 5 & 6 Vict. c. 35, s. 123.

² 43 & 44 Vict. c. 19, s. 52.

Commissioners, or require further information re- Chap. III.
specting the same, they may put any question in writing touching such assessment, or any sums which have been set against, or deducted from, the profits or gains to be estimated, in such assessment; and may demand an answer in writing from, and signed by, the person to be charged; and may issue their precept requiring true and particular answers to be given to the questions put within seven days after service of the precept; and every such person must answer according to the precept within the time limited, in writing, or, within the same time, tender himself before the General Commissioners, to be examined by them *vis à voce*; but he is permitted to give his answers in writing or *vis à voce*, as the case may be, without having taken any oath; and may object to any question, and peremptorily refuse to answer any question. The substance of such answers as he may give *vis à voce* must be reduced into writing in his presence, and read to him; and he may alter any part thereof, and alter or amend any particular contained in his answers in writing, before being called upon to verify the same on oath,¹ which the General Commissioners may afterwards, if they think it necessary, require him to do. ²The General Commissioners may also summon in like manner any person whom they may think able to give evidence respecting the assessment made upon any other per-

¹ 5 & 6 Vict. c. 35, s. 124.

² 5 & 6 Vict. c. 35, s. 125.

Chap. III. son to appear before them to be examined; and may examine every such person so summoned on oath, except the clerk, agent, or servant, of the person to be charged, or other person confidentially intrusted, or employed, in the affairs of the person to be charged, who can only be examined in the same manner, and subject to the same restrictions, as is, or are, provided for the *vivâ voce* examination of any person touching the assessment made on him. The penalty for refusing to appear when summoned, or to be sworn, or to answer any lawful question put, is a sum not exceeding twenty pounds, and treble duty.

Where Objection made by Surveyor, and allowed by General Commissioners, a Schedule required.—

¹Whenever the General Commissioners allow an objection to any assessment made by the Surveyor, they direct their precept ²to the person charged, to return to them within the time limited in the precept a schedule containing such particulars as the Commissioners shall demand, for their information; and the schedule must be delivered complete to the satisfaction of the Commissioners. The precept is delivered to the person to whom it is directed, or left at his last or usual place of abode, or if he has removed from the jurisdiction of the Commissioners,

¹ 5 & 6 Vict. c. 35, s. 120.

² The section mentions only "the person appealing." But the schedule is required, not only in the case of an appeal (as to which see *post*, pp. 236 *et seq.*), but also in the case mentioned in the text.

or cannot be found, or if his place of abode is not known, the precept is fixed on or near to the door of the church or chapel of the place where the Commissioners meet in execution of their office; and the precept is then binding upon the person to whom it is directed, and he must make the required return within the time limited, under ¹a penalty of a sum not exceeding twenty pounds and treble duty. ²The Surveyor has free access at all reasonable times to the return, and may take copies, or extracts, of or from the same as he thinks necessary; and ³he may, within a reasonable time to be allowed by the General Commissioners, after he has had examination of the schedule, object to the same or any part thereof in writing. If the Surveyor objects, he must deliver a notice in writing of the objection to the person to be charged, or leave the same at the last, or usual, place of abode of such person under cover, sealed up, and directed to him, in order that he may, if he thinks fit, appeal against the objection to the General Commissioners. ⁴If, upon receiving the objection of the Surveyor to any schedule, the General Commissioners disallow the objection, they may confirm, or alter, the assessment according to the schedule, as the case may require. ⁵If the person charged appeals, the assessment cannot be confirmed, or altered, until the appeal is heard. ⁶If, upon hearing the appeal, the General

¹ 5 & 6 Vict. c. 35, s. 128.

⁴ 5 & 6 Vict. c. 35, s. 122.

² 5 & 6 Vict. c. 35, s. 120.

⁵ 5 & 6 Vict. c. 35, s. 121.

³ 5 & 6 Vict. c. 35, s. 121.

⁶ 5 & 6 Vict. c. 35, s. 122.

Chap. III. Commissioners are satisfied with the schedule, and have received no information of its insufficiency, they may also confirm, or alter, the assessment according to the schedule, as the case may require. But, if the General Commissioners think that the schedule should be verified, they direct the Assessor to give notice to the person charged to appear before them; and he must appear accordingly and verify the contents of his schedule upon oath, and sign the same; and after such verification the General Commissioners make a final assessment.

¹The General Commissioners have the same powers of putting questions in writing, and calling upon the person questioned to verify his answers upon oath, with reference to any schedule, as we have ²before described them to have with reference to an assessment. ³In any case in which any person required to return a schedule neglects to do so, and in any case in which a schedule has been objected to by the Surveyor, and the objection has not been appealed against in proper time, and in any case in which a person called upon to verify his schedule or his answers, or examination in writing, neglects to do so, as well as in any case in which the General Commissioners agree to allow the objections made by any Surveyor, the General Commissioners according to the best of their judgment settle and ascertain in what sums such person ought to be

¹ 5 & 6 Vict. c. 35, ss. 123, 124.

² *Ante*, pp. 180, 182.

³ 5 & 6 Vict. c. 35, s. 126.

charged, and make a final assessment. ¹Any person, **Chap. III.** however, who has delivered a schedule may, if he discovers any omission or wrong statement therein, deliver an additional schedule rectifying such omission or wrong statement; and upon doing so is exempt from liability to any proceeding for such omission or wrong statement; and, if he has neglected to deliver a schedule within the time limited, he may deliver a schedule at any time before any proceeding has been taken to recover the penalty; and upon doing so is not liable to any proceeding for recovering the penalty. Even after proceedings have been commenced for recovering the penalty, the General Commissioners may, upon proof that no fraud or evasion was intended, stay the proceedings upon such terms as they think fit; or, if any proceeding has been commenced in any Court, the Judge of the Court may, upon a certificate from the General Commissioners that in their judgment no fraud or evasion was intended, stay the proceedings on such terms as he may think fit. And if an imperfect schedule has been delivered, if the person delivering the same gives a sufficient reason why a perfect schedule cannot be delivered, the Commissioners may give further time for delivery of the schedule. These provisions apply equally to statements as to schedules, and to the Commissioners to whom statements are to be delivered as to the General Commissioners.

¹ 5 & 6 Vict. c. 35, s. 129.

Chap. III. *Assessment by Special Commissioners on Request of*

Person chargeable.—¹Any person chargeable, who does not claim the exemption granted to persons whose annual incomes are less than 150%, may require that all proceedings in order to an assessment upon him be taken before the ²Special Commissioners instead of the Additional Commissioners or General Commissioners. He must deliver a notice of his request, with the list, declaration, and statement of his profits and gains, to the Assessor of the parish, to be by him transmitted to the Surveyor of the district in which he is chargeable. The Surveyor thereupon examines the list and statement, and assesses the duty according to his judgment, and delivers a certificate of the assessment, with the list, declaration and assessment, to the Special Commissioners, who examine the same, and make, or sign and allow, such an assessment as appears to them just and proper. The person charged, and also the Surveyor, ³has a right of appeal against the assessment so made. ⁴The Special Commissioners, when authorized to make, sign or allow any assessment, have all the powers which may be exercised by the General Commis-

Special
Commis-
sioners,
when au-
thorized
to make
assess-

¹ 5 & 6 Vict. c. 35, s. 131. As to the exemption, see *ante*, p. 111.

² That is, the Board, and such persons as the Treasury appoints. *Ante*, pp. 5, 6.

³ As to the appeal, see *post*, p. 241.

⁴ 5 & 6 Vict. c. 35, s. 132.

sioners, or by the Additional Commissioners in re-
lation thereto.

ment,
have all
the powers
of General
Commis-
sioners.

Where the Assessment is made by the Special Commissioners.

Procedure—Powers of Special Commissioners, &c.—

¹In every case in which an assessment is made by the Special Commissioners, they notify the amount of the assessment to the person charged. In the case of interest, dividends, or other annual payments, payable by ²foreign or colonial companies, and of ³all dividends, interest, and other annual payments, where the right or title of the person to whom the same is payable is shown by the registration or entry of the name of such person in any book or list ordinarily kept in the United Kingdom, which, ⁴as we have said, are assessed by the Special Commissioners, ⁵all persons entrusted with the payment of such annuities, &c., or acting therein as agents, or in any other character, or having the custody of such book, or making such list, must without further notice deliver to the Board an account in writing containing a description of the annuities, &c., intrusted to them for payment, and other prescribed particulars, within one month after the same has been required

¹ 5 & 6 Vict. c. 35, s. 131.

² 16 & 17 Vict. c. 34, s. 10; 24 & 25 Vict. c. 91, s. 36.

³ 29 & 30 Vict. c. 36, s. 9.

⁴ *Ante*, pp. 171, 172.

⁵ 5 & 6 Vict. c. 80, s. 2. As to the extent of the phrase "person entrusted with payment," see *ante*, p. 162, note ².

Chap. III. by public notice in the "London Gazette;" and must also, on demand by the inspector authorized for that purpose by the Board, deliver to him for the use of the Special Commissioners true accounts of the annuities, &c. payable by them. The Special Commissioners make the assessment on such annuities, &c., and give notice of the amounts of the assessments made by them to the respective persons intrusted with the payment of the annuities, &c. The penalty which any person intrusted with the payment of the annuities, &c., who neglects, or refuses, to deliver an account as aforesaid, incurs, is 100*l.* over and above the duty. As ¹we have said, the Special Commissioners have, in all cases in which they are authorized to act, the same powers as the Additional or the General Commissioners.

Assessments entered in Books, &c.—²The General Commissioners, and the Special Commissioners when authorized to act, enter the several amounts of the sums assessed by them in their Books of Assessment; and from time to time make out and transmit to the Board accounts of the amount of duty assessed by them containing prescribed particulars.

SUB-SECTION 2.—COLLECTION.³

When Assessment made by General Commissioners.—

⁴All assessments made by the General Commissioners

¹ *Ante*, p. 186.

³ See note, p. 139, *ante*.

² 5 & 6 Vict. c. 35, s. 136;
12 & 13 Vict. c. 1, s. 17.

⁴ 5 & 6 Vict. c. 35, s. 137.

are entered in books with the names, and descriptions, Chap. III.
and places of abode, of the persons, corporations, or
societies, charged thereunder; and the entries are
either numbered progressively or distinguished by
letters as the Commissioners think proper. If any
person charged by any such assessment declares his
intention of paying the duty to the proper officer for
receipt within the time limited for payment, and the
Commissioners are satisfied with such declaration,
they deliver to such person, or to anyone attending
on his behalf, a certificate under the hands of two
of the Commissioners, specifying the amount of the
sums to be paid within one year upon such assess-
ment. The certificate is numbered or lettered with
the same number or letter as the entry in the book
of the Commissioners to which such certificate relates,
without naming, or otherwise describing, the person
charged; and the certificate is a sufficient authority
to the receiving officer to receive from time to time
from any person producing the certificate the amount
of the sums contained therein; and on payment of
the sums contained in any such certificate the re-
ceiving officer gives a certificate for the same acknow-
ledging the payment. ¹If no declaration is made by
the person charged, or if the Commissioners are not
satisfied with the declaration, they deliver a duplicate
of the assessment made upon such person to the
Collector, with their warrant for collecting the same.

¹ 5 & 6 Vict. c. 35, s. 138.

Chap. III. If after a declaration as aforesaid is delivered, the duty is not paid in accordance therewith, the name of the defaulter, and the amount of the duty assessed upon him, is inserted in the duplicate of the Collector, and the warrant for collecting the same is then of like force as if the name and sum had been inserted therein at the time of issuing the warrant. ¹The General Commissioners are empowered to deliver to the receiving officers duplicates of the assessments made by them, containing the sums assessed upon every person to whom a certificate has been delivered by letter or number, without naming such persons, with their warrants for receiving the duties when the same become payable. ²The duty payable on every such assessment must be paid by the person charged to the receiving officer before the day appointed for payment; and the certificate required to be given on payment must be delivered to the General Commissioners, or to one or more of them, or to their Clerk at his office, before the time when the duty is payable, and their, or his, receipt taken for the same. If the duty is not paid, or the certificate delivered as aforesaid, the General Commissioners deliver a duplicate of all sums assessed on the defaulter, together with their warrant, to such Collector as they may appoint to levy the sum in arrear and unpaid. The duties mentioned in the

¹ 5 & 6 Vict. c. 35, s. 139.

² 5 & 6 Vict. c. 35, s. 140.

warrants delivered to the receiving officers are col- Chap. III.
lected and levied as the duties under any other of
the schedules are collected and levied.

Deduction of Duty from Interest, &c.—¹Every person liable to the payment of any yearly interest of money, or any annuity, or annual payment, as a personal debt, or obligation by virtue of any contract, may, on making such payment, deduct the amount of the rate of duty, which at the time when such payment becomes due is payable. ²If the rate of income tax has varied during the period through which such payment has accrued, a proportionate amount of the several rates of income tax chargeable may be deducted. ³A refusal to allow any such deduction renders the person refusing liable in some cases to forfeit treble the value of the debt, and in others to a penalty of fifty pounds.

A debtor assigned to trustees a fund in Court, upon trust to pay a fixed sum yearly to his creditors in payment of their debts *pro rata* with interest until payment. It was held that the trustees were entitled to deduct income tax on

Case of
Crane v.
Kilpin.

¹ 5 & 6 Vict. c. 35, s. 102; 16 & 17 Vict. c. 34, s. 40.

² 27 & 28 Vict. c. 18, s. 15.

³ 5 & 6 Vict. c. 35, s. 103; 16 & 17 Vict. c. 34, s. 40. Where interest, &c. has been paid out of profits chargeable under Schedule D. without deduction, the Commissioners may grant a certificate which will entitle the person charged to make the deduction. See *post*, pp. 231, 232.

Chap. III.

the payments made by them in respect of interest. *Crane v. Kilpin*, L. R., 6 Eq. 334.

Where the Assessment is made by the Special Commissioners.—¹All persons entrusted with payment of annuities, dividends, or shares of annuities, or interest, payable out of the revenues of any foreign state, or by foreign, or colonial companies, and on all dividends, &c., the right to which of the person to whom the same may be payable is shown by the registration or entry of the name of such person in any book or list ordinarily kept in the United Kingdom, and on all annuities, pensions, or other annual sums payable out of the funds of any institution in India, entrusted to any person in the United Kingdom for payment to any persons resident in the United Kingdom, on receiving the ²notice of the amount of the assessments thereon given by the Special Commissioners, must pay the duty on such annuities, &c., on behalf of the persons, corporations, and companies, entitled to the same out of the moneys in their hands. The persons entrusted with payment of the annuities, &c., must from time to time pay the duties assessed thereon into the Bank of England to the account kept there with the Receiver-General of Inland

¹ 5 & 6 Vict. c. 35, ss. 29, 96; 16 & 17 Vict. c. 34, s. 10; 24 & 25 Vict. c. 91, s. 36; 29 & 30 Vict. c. 36, s. 9. The phrase "person entrusted with payment," has the same extent of meaning in the first three sections quoted, as to which see *ante*, p. 162, note ².

² See *ante*, p. 187.

Revenue. ¹The Special Commissioners, when authorized to act in relation to the assessment, have all the powers of the General, or Additional, Commissioners in relation to the collection of the duties. Chap. III.

SECTION V.

SCHEDULE E.—ASSESSMENT AND COLLECTION.²

Who are Commissioners for assessing the Duties under Schedule E.—³The Commissioners authorized to assess the duties chargeable under Schedule E. upon the salaries, &c., attached to the offices which ⁴we have mentioned as included in this schedule are the ⁵respective Commissioners for all the offices in each department, and the assessment is made in the respective places in which such Commissioners respectively execute their offices. In all cases of duty chargeable under this schedule in which the Commissioners just referred to have no jurisdiction, ⁶the

¹ 5 & 6 Vict. c. 35, s. 132.

² See note ¹, p. 139, *ante*.

³ 5 & 6 Vict. c. 35, ss. 30, 31, 34.

⁴ See *ante*, pp. 112, 113.

⁵ For an enumeration of these Commissioners, see *ante*, pp. 7—10.

⁶ 5 & 6 Vict. c. 35, s. 22. The General Commissioners are Commissioners for assessing the duty upon all offices, and employments of profit (not being public offices, or employments of profit, under her Majesty), in any county, riding, shire, city, liberty, town, or place, whether in the appointment of the lieutenant, custos rotulorum, justices or magistrates, commissioners for aids or taxes, or sheriff, of such

Chap. III. assessment is made by the General Commissioners,
 —¹except in the case of offices, and employments of profit held in or under any railway company, the assessment upon which is made by the Special Commissioners. ²Every person to be assessed for his office, or employment, is deemed to have exercised the same at the head office of the department under which such office or employment is held; and every office is deemed to belong to, and to be assessed by, or under, the principal officers of that department by, or under, whom the appointment to such office is made; but when such appointment is made by any inferior officer, the office is assessed by the same Commissioners as assess such inferior officer. But when any such appointment is made under the Great, or Privy, Seal, or under the Royal Sign Manual, or under the hands or seals of the Treasury, and the office is not

county, &c., or of any trustees, or guardians of any trust, or fund, in such county, &c., and for all parochial offices in such county, &c. (except corporate offices in cities, corporate towns, boroughs, or places, or offices in cinque ports, in assessing the duties on which the mayor, aldermen, and common council, or the principal officers or members of the city, &c., or any three or more of them, not exceeding seven, act as Commissioners: *ante*, p. 9). 5 & 6 Vict. c. 35, s. 32. This section was repealed by sect. 9 of the Customs and Inland Revenue Act, 1876 (39 & 40 Vict. c. 16), but was revived, with respect to the duties chargeable under Schedule E., by sect. 7 of the Customs, Inland Revenue, and Savings Bank Act, 1877 (40 & 41 Vict. c. 13).

¹ 23 & 24 Vict. c. 14, s. 6. See *post*, p. 200.

² 5 & 6 Vict. c. 35, s. 147.

exercised in the department of the Treasury, the officer holding the same is assessed in the department in which he exercises his office. But this is without prejudice to the right of the Commissioners of the district to assess the profits of offices within their respective jurisdictions, although such offices are not held under their appointment. ¹In all cases in which any annuity, or pension, is payable out of any particular branch of the public revenue, and at the office of that branch of revenue, the Commissioners acting for that department have authority to assess and levy the duty upon same as a salary, or wages, payable thereout. Chap. III.

Assessment.—Period for which made.—²The assessment in respect of annuities, pensions, or stipends, mentioned in Schedule E. is in force for one whole year, unless the same ceases, or expires, within the year by lapse, death, or otherwise; from which period the assessment is discharged. ³The assessments are in force for one year, commencing, and payable, at the like periods as the assessments in parishes are made payable.

Qualification of Commissioners for Duties on Offices, &c.—⁴No qualification is required of any of the

¹ 5 & 6 Vict. c. 35, s. 146, r. 10.

² 5 & 6 Vict. c. 35, s. 146, r. 1.

³ 5 & 6 Vict. c. 35, s. 154.

⁴ 5 & 6 Vict. c. 35, s. 156.

Chap. III. officers or persons who are Commissioners for the duties on offices, or employments of profits, or on pensions, stipends, or annuities, chargeable under Schedule E., and who act as such Commissioners by virtue of their several offices, other than such offices respectively.

Proceedings in order to Assessment.—¹The Commissioners meet as soon after their appointment as they conveniently can in some convenient place, and, after qualifying themselves by taking ²the prescribed oaths, they may elect a Clerk, and Assessors; and, ³in cases in which the duties cannot be stopped and detained at the departments of office of the Commissioners respectively, or for which they respectively act, they may also elect separate Assessors from the officers in their respective departments. Such Assessors, within a time fixed by the Commissioners, deliver to them their certificates of assessment in writing under their hands, and verified upon oath, of the full and just annual value of all offices, and employments of profit, chargeable with duty, and of all pensions, and stipends, and of the names and surnames of the several officers, and persons, entitled to pensions, or stipends, and of the duties they ought to pay. The Assessors ¹assess themselves as well as all

¹ 5 & 6 Vict. c. 35, s. 150.

² *Ante*, p. 10.

³ As to the cases in which the duties may be stopped or detained, see *post*, pp. 198, 199.

other persons whom they ought to assess; and ¹may **Chap. III.** have free access to all documents and papers whatever in their respective offices touching the salaries, &c. of any person chargeable belonging to their respective offices. They may, also, whenever necessary, require returns from the persons chargeable, in order that they may make a true assessment; but, ²unless such a return is required by the Assessors, no person chargeable is to be liable to a penalty for not returning a statement of the profits arising from his office, pension, or stipend, in pursuance of any general notice. ³Lists or accounts of all salaries, fees, wages, perquisites, and profits, pensions, and stipends, must be delivered upon the request of the Assessors by the officers or their deputies, receivers, and paymasters, in every office for which Commissioners are appointed for raising the duties, to, or by, whom the same salaries are paid, or payable; as well as by any agent by whom the same are payable. The penalties for not delivering such lists or accounts upon request are the same as those exacted for not delivering the other returns required by the ⁴Income Tax Act, 1842. The assessments made by the Assessors must be brought by them to the Commissioners appointed in regard of the same, who must sign the assessments.

¹ 5 & 6 Vict. c. 35, s. 150.

² 5 & 6 Vict. c. 35, s. 151.

³ 5 & 6 Vict. c. 35, s. 154.

⁴ 5 & 6 Vict. c. 35.

Chap. III. *Stoppage of Duties.*—¹In all cases in which any salaries, fees, or wages, or other perquisites, or profits, or any annuities, pensions, or stipends, are payable at any public office, or by any officer of her Majesty's household, or by any of her Majesty's receivers, or paymasters, or by any agents employed in that behalf, the duties payable in respect thereof are detained and stopped thereout, if not otherwise paid; and, whenever such duties are assessed by the General Commissioners in their respective districts, they must transmit an account of the amount of the duty assessed to the office where the salaries, &c. are payable in order that the duty assessed may be there stopped or detained. ²In all cases in which the salaries, &c. of any officer chargeable do not arise out of any of the offices mentioned, but out of some other office, or employment of profit, chargeable with duty, and the salaries, &c., are payable at such office by any officer thereof, or by any receiver, or by any agent, employed in that behalf, the duties chargeable on such salaries, &c., are also stopped or detained thereout, if not otherwise paid. ³Such portion of the duties on offices, or employments of profit, or on annuities, pensions, or stipends, charged with any sum of money payable to any other person, is deducted out of the sum payable to such other person as a like rate on such sum would amount to; and all such persons, their agents, or re-

¹ 5 & 6 Vict. c. 35, s. 146, r. 5.

² 5 & 6 Vict. c. 35, s. 146, r. 6.

³ 5 & 6 Vict. c. 35, s. 146, r. 7.

ceivers, must allow such deductions and payments **Chap. III.** upon receipt of the residues of such sums. ¹ And such portions of the duties charged on any office, or employment of profit, executed by any deputy, or clerk, or other person employed under the principal in such office, and paid by such principal out of his salary, &c., is deducted out of the salary, &c., so payable as a like rate on such salary, &c., would amount to; and all such deputies, &c., must allow to their respective principals such deductions and payments on receipt of the residues of such salaries, &c. ² Every person refusing to allow any deduction of duty authorized to be made incurs a penalty of fifty pounds. ³ In estimating the duty payable for any such office, or employment of profit, or any pension, annuity, or stipend, all official deductions and payments made upon receipt of the salaries, fees, wages, perquisites, and profits thereof, or in passing the accounts belonging to such office, or upon the receipt of such pension, annuity, or stipend, must be allowed to be deducted, if a due account thereof is rendered to the Commissioners and proved to their satisfaction.

Additional Assessment.—⁴ Where any person who holds, or exercises, any public office, or employment of profit, becomes entitled to any additional salary,

¹ 5 & 6 Vict. c. 35, s. 146, r. 8.

² 5 & 6 Vict. c. 35, s. 103.

³ 5 & 6 Vict. c. 35, s. 146, r. 9.

⁴ 16 & 17 Vict. c. 34, s. 53.

Chap. III. fees, or emoluments, during any year of assessment beyond the amount for which any assessment was made upon him, or beyond the amount at which at the commencement of the year of assessment he was liable to be charged, an additional or supplemental assessment is from time to time, as often as the case requires, made upon such person for the additional salary, &c., so that he may be assessed and charged for the full amount of the whole of the salary, &c., which he receives, or becomes entitled to, during the year of assessment.

Duties in respect of Offices, &c., in or under any Railway Company.—¹The Special Commissioners, when they have assessed the duty payable in respect of any office, or employment of profit, in or under any railway company, notify the particulars thereof to the secretary, or other officer, of the company, and the assessment is then deemed to be an assessment upon the company, and is paid, collected, and levied, accordingly. The company, or their secretary, or other officer, may deduct or retain out of the fees, emoluments, or salary of each person

¹ 23 & 24 Vict. c. 14, s. 6; 40 & 41 Vict. c. 13, s. 7. A railway company is not liable to be assessed in respect of wages paid by them to persons employed by them at weekly wages. It would seem that any such persons, if their incomes amount to 150*l.* a year, are liable to be assessed under Schedule D. *Attorney-General v. The Lancashire and Yorkshire Railway Company*, 33 L. J., Ex. 163.

in their employment the duty charged in respect of Chap. III. his profits or gains.

When any Office, &c., is executed by Deputy.—

¹When any office, or employment of profit, chargeable with duty is executed by deputy, and the deputy is in receipt of the profits thereof, he is answerable for, and must pay the assessment charged thereon, and may deduct the same out of the profits of such office, or employment. And where the salaries, fees, wages, emoluments, or profits, of any officer, or officers, in any such office are receivable by one or more of the said officers for the use of such officer, or officers, or as a fund to be divided amongst such officers in certain proportions, the officer, or officers, receiving such salaries is, or are, answerable for the duties charged thereon, and must pay the same, and deduct them out of the funds provided for such respective offices, or employments, before any division or apportionment thereof. In case of refusal to pay, or non-payment, the deputy, or receiver, is liable to such distress, and to all such other remedies, and penalties, respectively, as is, or are, prescribed against any person having the office, or employment.

Delivery of Duplicates of Assessments to Collectors.

—²The respective Commissioners for duties upon

¹ 5 & 6 Vict. c. 35, s. 153.

² 5 & 6 Vict. c. 35, s. 154.

Chap. III. offices, in all cases in which Collectors are authorized to be appointed, cause like duplicates of assessment to be made, and delivered to the Collectors, with like warrants to collect the duties, as ¹are given to Collectors for any parish or place; and the Collectors of the duties on offices have like authority to demand and levy the said duties as ¹is given to Collectors of any parish or place. ²In all cases in which the duties on any salaries, fees, wages, perquisites or profits of any public office are detained and stopped out of the same salaries, &c., the respective Commissioners cause like duplicates to be delivered to the proper officers in the respective offices, who keep true accounts of all moneys stopped and detained, and are answerable for the same.

¹ See *ante*, p. 139.

² 5 & 6 Vict. c. 35, s. 154.

CHAPTER IV.

ALLOWANCES, ABATEMENTS, RELIEFS, AND CORRECTION
OF ERRONEOUS ASSESSMENTS.

IN the preceding portion of this book we have dealt with the authorities concerned in assessing, and collecting, the income tax, with the property, and profits, upon which the tax is charged, and with the machinery by means of which the tax is assessed, and collected. We have now to describe the methods by which persons charged obtain the allowances and abatements, which they are entitled to claim, and secure the rectification of erroneous assessments made upon them. In dealing with this subject we shall adopt the plan we have previously employed, and divide the present chapter into sections corresponding with the five Schedules under which the duties of income tax are charged.

SECTION I.—SCHEDULE A.

Allowances to Ecclesiastical Persons in respect of Tenths, &c.—As ¹we have already seen, ²allowances are made for the amount of the tenths, and first

¹ *Ante*, pp. 62, 63.

² 5 & 6 Vict. c. 35, s. 60, No. 5, rr. 1, 2, 3.

Chap. IV. fruits, duties and fees on presentations, paid by any ecclesiastical person within the year preceding that in which the assessment is made; for procurations, and synodals, paid by ecclesiastical persons, on an average of seven years preceding that in which the assessment is made; and for repairs of collegiate churches and chapels, and chancels of churches, or of any college or hall in any of the universities of Great Britain by any ecclesiastical or collegiate body, rector, vicar, or other person, bound to repair the same, on an average of twenty-one years preceding that in which the assessment is made. ¹The allowances in respect of the charges enumerated may be made to the ecclesiastical, or collegiate, body, rector, vicar, or other person, liable to such charges respectively in one sum, either by deducting the same from the assessment made upon him (with deductions so made we have not now to deal), or by certificate. ²In case the allowance has not been made by way of deduction from the assessment, the person entitled thereto must claim the allowance at any time ³within three years after the expiration of the year of assessment, before the General Commissioners for the district in which the property charged with the payments in respect of which the allowance is made is situate. The General Commissioners, upon due proof before them that the claimant is entitled to the

Allow-
ances may
be made
either by
deduction
from as-
sessment,

or by
certificate
and order.

¹ 5 & 6 Vict. c. 35, s. 60, No. 5.

² 5 & 6 Vict. c. 35, s. 61.

³ 23 & 24 Vict. c. 14, s. 10.

allowance which he claims, certify the particulars Chap. IV.
and amount of the allowance to the Special Commissioners at the ¹Chief Office of Inland Revenue in England, and the Special Commissioners then grant an order for the payment of such allowance, directed either to the Receiver-General of Inland Revenue, or to an officer for receipt, or collector, of the duties, or to a distributor, or sub-distributor, of stamps, as may be most convenient for the person entitled to the allowance, and upon the delivery of the order to the Receiver-General or other officer to whom the same is directed, he pays the amount of the allowance to the person entitled thereto, taking a receipt by indorsement upon the order.

Allowance for diminished Value of Machinery by wear and tear.—In the case of any ²concern chargeable under Schedule A. by reference to the rules of Schedule D., ³when any machinery or plant is let for the purposes of the concern, to the person, or company, by whom the concern is carried on, upon such terms that the burden of maintaining and restoring the machinery, or plant, falls upon the lessor, he is entitled, on claim made to the General, or Special,

¹ 12 & 13 Vict. c. 1, s. 17.

² See *ante*, pp. 51, 52 *et seq.*

³ 41 & 42 Vict. c. 15, s. 12. We are dealing now, it will be observed, only with the claim to repayment made by the lessor of machinery, &c. As to the deduction for diminished value of machinery, &c., by wear and tear made upon assessment of any such concern as above mentioned, see *ante*, p. 58.

Chap. IV. Commissioners in the ¹manner prescribed by sect. 61 of the ²Income Tax Act, 1842, to have repaid to him such a portion of the sum which has been assessed and charged in respect of the machinery or plant, and deducted by the lessee on payment of the rent, as represents the income tax upon such an amount as the Commissioners think just and reasonable, as representing the diminished value by reason of wear and tear of such machinery or plant during the year. But no such claim is allowed unless it is made within twelve calendar months after the expiration of the year of assessment.

Exemption of Persons whose Income is less than 150l. a-year from Duty, and Mode of claiming Exemption.—³Any person chargeable to the duties either by way of assessment or deduction, is exempt if his annual income is less than 150l.; and, if he has paid, or been charged with, duty, he is entitled to be repaid the amount of all payments, and deductions, made by, or against, him on account of duty, except of course such sums paid, or charged, on account of duty as he is entitled to charge against any other person, or to deduct out of any payment to which he may be, or become, liable. The modes of proceeding to claim the exemption differ according as the

¹ See *ante*, p. 204.

² 5 & 6 Vict. c. 35.

³ 5 & 6 Vict. c. 35, ss. 163, 164; and 39 & 40 Vict. c. 16, s. 8.

claim is made before assessment, or after the duty Chap. IV. has been charged by way of deduction, and are as follows:—

1. ¹If the claim is made before assessment, the claimant within the time limited for delivering the lists, declarations, and statements, required from him, or within such further time as the Commissioners for special cause assigned allow, must deliver to the Assessor of the parish, or place in which he resides, a notice of his claim to exemption, with a declaration and statement ²in the prescribed form, signed by him, setting forth all the particular sources from which his income arises, and the amount of that part of his income which arises from each source specified, and every sum of annual interest, or other annual payment, reserved, or charged thereon, by which the income is diminished, and also every sum which the claimant has charged, or is entitled to charge, against any other person, for, or on account of, the duty, or which he is entitled to deduct or retain from or out of any payment to which he is, or may become, liable. ³The claim must be made to the Commissioners of the district in which the claimant resides, whether he is personally

1. Mode of proceeding in case claim is made before assessment.

¹ 5 & 6 Vict. c. 35, s. 164.

² The Board have a general authority to prescribe, supply, and approve forms. 43 & 44 Vict. c. 19, s. 15.

³ 5 & 6 Vict. c. 35, s. 169.

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charged in such district or not. ¹The claim may be made by any guardian, trustee, attorney, agent, or factor, acting for the claimant, in any case in which satisfactory proof is afforded that the claimant is unable to attend in person, as well as in cases in which such guardian, &c., is authorized to act for another for the purpose of being assessed on his account in the first instance. ²The Surveyor is at liberty to peruse and examine, and to take copies of, or extracts from, the declaration and statement delivered by the claimant, or on his behalf. The notice, declaration, and statement, when received by the Assessor, is transmitted by him to the Commissioners, and if the Surveyor does not object to the declaration within forty days, the Commissioners may allow the claim to exemption, and discharge the assessment upon the claimant, either in his own name, or in the name of his lessee or tenant. If it appears that any property, or profits, of the claimant is, or are, assessed, or liable to be assessed in any other district, the Commissioners certify to the Board the allowance of the claim to exemption, and the Board direct the assessment made upon the property, or profits, of the claimant in such other district to be discharged, either in his own

¹ 5 & 6 Vict. c. 35, s. 170.

² 5 & 6 Vict. c. 35, s. 164.

name, or in the name of his lessee or tenant. **Chap. IV.**
 If the Surveyor objects to the claim to exemption in writing, and suggests that he has reason to believe that the income of the claimant, or any other particulars required to be set forth in the declaration or statement, is, or are, not truly set forth in any specified particular, the merits of the claim to exemption are heard and determined on appeal before the General Commissioners, as other appeals are heard and determined before them; and if the claim is allowed on appeal, the General Commissioners issue all necessary certificates consequent thereon.

2. If the claim to exemption is made after the duty has been charged by way of deduction,¹ then, if the claim has been allowed by the General Commissioners, and it is proved to their satisfaction that the claimant has been charged to, and has paid, any duty by way of deduction from any rent, annuity, interest, or other annual payment to which he is entitled, and from which deduction is authorized, the General Commissioners certify to the Special Commissioners at the head office of Inland Revenue in England the amount, and the particulars, or nature, of the payment out of which, and the name, and place of abode, of the person by whom, such deduction has been made, and

2. Mode of proceeding in case claim is made after the duty has been charged.

¹ 5 & 6 Vict. c. 35, s. 165; 12 & 13 Vict. c. 1, s. 17.

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other prescribed particulars; and thereupon the Special Commissioners issue to the claimant an order directed to the Receiver-General of Inland Revenue, or to an officer for receipt, or Collector, of the duties, or to a distributor, or sub-distributor, of stamps, for repayment of the duty certified to have been paid by him; and such duty is accordingly repaid in the same way as the allowances mentioned ¹before.

²But every claim for repayment of duty must be made within three years after the end of the year of assessment to which the claim relates.

How
annual
value of
land, &c.
estimated
for the
purpose of
claiming
deduction
on account
of yearly
income
being less
than 150%.

³The annual value of lands, &c., belonging to, or occupied by, any person claiming exemption on the ground of his yearly income being less than 150% is estimated, for the purpose of ascertaining his title to such exemption, according to the 'rules and directions contained in the Schedules A. and B. respectively. The income arising from the occupation by such claimant of lands, &c., is deemed, for the purpose aforesaid, to be equal in England to one-half of the full annual value thereof, estimated according to such rules and directions. Where the claimant is proprietor as well as occupier, the amount deemed to be the income arising from the occupation as aforesaid, is added to the full annual value of the lands,

¹ See *ante*, p. 204.

² 23 & 24 Vict. c. 14, s. 10.

³ 5 & 6 Vict. c. 35, s. 167.

⁴ See *ante*, pp. 47 *et seq.*

&c., and the aggregate amount is deemed, for the purpose aforesaid, to be the income of the claimant arising from the lands, &c., of which he is proprietor and occupier. The income arising from any lease of, or composition for, tithes is deemed, for the purpose aforesaid, to be equal to one-fourth of the full annual value of such tithes estimated as aforesaid.

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¹Coparceners, joint tenants, or tenants in common, of the profits of any property, and joint tenants or tenants in partnership of lands or tenements, being in the actual and joint occupation thereof in partnership, and entitled to the profits thereof in shares, and personally labouring therein, or managing the same, may severally claim the exemption according to their respective shares and interests; and the claims, when duly proved to the satisfaction of the Commissioners to whom the same are made, may be proceeded upon as in the case of several interests. But the profits so arising are not in any case charged separately to the duty, in respect of the occupation of lands, where lands are let, or underlet, without relinquishment of the possession by the lessor, or where the lessee or tenant is not exclusively in the possession or occupation of the lands so let. ²All claims for repayment of duty must be made within three years next after the end of the year of assessment to which the claim relates.

¹ 5 & 6 Vict. c. 35, s. 168.

² 23 & 24 Vict. c. 14, s. 10.

Chap. IV. *Abatement of Duty allowed to Persons whose Income is under 400l. a year.*—¹Any person chargeable to the duties, either by way of assessment or deduction, if his annual income exceeds 150l. a year, but is less than 400l. a year, is entitled, if he has paid, or been charged with, duty, to be relieved from so much of the duties assessed upon, or paid by, him as an assessment, or charge, of the said duties upon 120l. of his income amounts to. The relief, if not given by reduction or abatement of the assessment, upon the person entitled to relief, is given by the repayment to him of so much of the excess as he has paid, in the same way as repayment is made to a person entitled to exemption on account of his annual income being less than 150l. a year.

Abatement of Duty in respect of Premiums paid on Life Assurances and Purchases of Deferred Annuities, and Mode of claiming same.—Any person who has been assessed under Schedule A., and has paid the duty assessed upon him, or has been charged with it by way of deduction, may, if he has effected a life assurance or purchased a deferred annuity, as ²before explained, make a claim to the Commissioners for Special Purposes for repayment of such a proportion of the duty paid by him as the amount of the annual premium paid by him bears to the whole amount of

¹ 39 & 40 Vict. c. 16, s. 8.

² *Ante*, pp. 66—68.

his profits and gains on which he is chargeable under all, or any of, the schedules, and, on proof of the facts to the satisfaction of the Commissioners, is entitled to have such repayment made. Chap. IV.

Allowances in respect of Payments out of Tithe Rent-Charge.—¹As we have already explained, allowances are made for parochial rates, taxes, and assessments, charged upon, or in respect of, any rentcharge confirmed under the Act passed for the commutation of tithes, on the amount paid in the year in which the assessment is made. ²These allowances are not made by way of deduction from the assessments, but by certificate in ³the manner explained with reference to allowances for tenths, &c.

Allowances in respect of Land Tax, Drainage Charges, &c.—¹As we have already explained, allowances are made for the amount of the land tax charged on lands, &c., under the 38 Geo. III. c. 5, where the land tax has not been redeemed, and for drainage, and other, charges. These allowances seem to be made by way of deduction from the assessment; so that with regard to them no further explanation is necessary.

¹ *Ante*, p. 63.

² 5 & 6 Vict. c. 35, s. 60, No. 5, and s. 61.

³ *Ante*, pp. 203—205.

Chap. IV. *Allowances for Colleges and Halls in Universities, Hospitals, &c.*—¹As we have already explained, allowances are made for the duties charged on any college or hall in any of the Universities of Great Britain in respect of public buildings and offices belonging to such college or hall in certain cases; and on any hospital, public school, or almshouse, in respect of the public buildings, &c., belonging to such hospital, public school, or almshouse, in certain cases. ²These allowances are directed to be made by the General Commissioners in their respective districts.

Allowances for Rents of Lands, &c., belonging to Hospitals, &c.—³As we have already explained, allowances are made for the duties charged on the rents and profits of lands, &c., belonging to any hospital, public school, or almshouse, or vested in trustees for charitable purposes. ⁴These allowances are made by the Special Commissioners, on proof before them of the due application of such rents and profits to charitable purposes only, and in so far as the same are applied to charitable purposes only. The claim may be made, and proved, by any steward, agent, or factor, acting for such hospital, school, almshouse, or trust for charitable purposes,

¹ *Ante*, p. 64.

² 5 & 6 Vict. c. 35, s. 61, No. 6.

³ *Ante*, p. 65.

⁴ 5 & 6 Vict. c. 35, s. 61, No. 6, and s. 62.

by affidavit taken before any Commissioner in the district in which the claimant resides. The affidavit must state the amount of the duties chargeable, and the application of the rents and profits on which the duties are charged. The Special Commissioners give a certificate of the allowance, and an order for payment thereof in the manner ¹before explained. ²The claim must be made within three years next after the end of the year of assessment to which the claim relates.

Appeal against first Assessment—Notice of Day for.
—As soon as the assessments for any parish or place have been allowed and signed by the General Commissioners in the manner we have ³before described, ⁴they cause notice that the assessments have been signed and allowed, and of the day for hearing appeals from the assessments, to be given, either by delivering to the Assessor of such parish, &c., a copy of the assessments, for the inspection of the persons charged thereby, and a public notice of the day of appeal to be affixed on, or near to, the church door, or on any other public place in the parish; or by delivering to each person charged the amount of his assessment with a note of the day of appeal. The notices must be given at least fourteen days before

¹ *Ante*, p. 204.

² 23 & 24 Vict. c. 14, s. 10.

³ *Ante*, pp. 135, 136.

⁴ 5 & 6 Vict. c. 35, s. 80; 43 & 44 Vict. c. 19, s. 57.

Chap. IV. the day fixed for appealing. ¹The Clerk to the Commissioners informs the Surveyor of the day fixed for appealing. Any person aggrieved by an assessment upon him included in any first, or additional first, assessment may give ten days' notice of objection in writing to the Surveyor within the time limited for hearing appeals, and, upon giving such notice, he becomes entitled to appeal to the General Commissioners against the assessment within twenty-one days after the day on which he received notice of the assessment. The General Commissioners cause notice of the day of appeal to be given to every appellant. The Commissioners are bound to meet from time to time, with or without adjournment, for the purpose of hearing appeals, until all appeals have been determined. Except in cases in which they are ² specially authorized to rectify assessments otherwise, no assessment delivered to the General Commissioners may be altered by them before the time for hearing and determining appeals, and then only in cases of charges appealed against, and upon hearing the appeal on a day duly appointed. Any person altering any assessment wrongfully after it has been allowed becomes liable to a penalty of 50%.

Time for
appealing
against
first, or
additional
first, as-
sessment.

Proceedings on Appeal.—³The appellant must appear before the General Commissioners on the day

¹ 43 & 44 Vict. c. 19, s. 57.

² *Ante*, p. 135.

³ 43 & 44 Vict. c. 19, s. 57.

appointed, in person; no barrister, solicitor, or person practising the law, being allowed to plead for him. However, in cases in which persons are chargeable in respect of property or profits not their own, they may of course appeal, and appear upon the appeal, as if the assessment had been made in respect of property or profits to which they were beneficially entitled. ¹No abatement, or reduction, in the charge made upon any assessment, or surcharge, may be made by the General Commissioners, upon the hearing of any appeal, unless the appellant proves to them by evidence given by him upon oath, or affirmation, or by other lawful evidence produced by him, that he is overcharged in the assessment, or surcharge, against which he appeals. The Surveyor may attend the hearing of the appeal. He may be present during the whole time occupied by the Commissioners in hearing and in determining the appeal; and he may give his reasons in support of the assessment, or surcharge, appealed against, and produce any lawful evidence in support of such assessment, or surcharge.

²If upon the appeal any dispute arises about the annual value of any lands, &c., ³situate elsewhere than in the Metropolis, and the General Commissioners think it necessary, or ⁴the appellant requires them,

Valuation
in certain
cases.

¹ 43 & 44 Vict. c. 19, s. 57.

² 5 & 6 Vict. c. 35, s. 81.

³ 32 & 33 Vict. c. 67, s. 77. In the "Metropolis" the Valuation List is conclusive as to "annual value," *ante*, p. 130.

⁴ 16 & 17 Vict. c. 34, s. 47.

Chap. IV. to have a valuation of such lands, &c., made by a skilled person, they may direct the appellant to have a valuation made by any person they may name; and the costs of the valuation abide the final determination of the Commissioners, and are in their discretion. ¹The Commissioners have power to rectify the assessment appealed against, not only by reducing it in case the appellant proves that he has been overcharged, but also by increasing it in case it is proved that he has not been sufficiently charged. ²When the General Commissioners have determined the appeal, their determination is final, unless a case for the opinion of the High Court has been required in the way we shall ³presently describe; and is then capable of alteration only by order of the High Court; and ⁴precludes the Surveyor from afterwards making a further charge for the same year on the person whose case is determined by the appeal, in respect of the property or profits included in the assessment appealed against and determined. The appeal is made, as we have said, to the General Commissioners of the district within which the assessment was made; but ⁵if the person assessed has moved out of such district without appealing, the Board may, if they think fit, upon his application,

¹ 5 & 6 Vict. c. 35, ss. 81, 82; 43 & 44 Vict. c. 19, s. 57.

² 43 & 44 Vict. c. 19, s. 57.

³ *Post*, pp. 221—223.

⁴ 43 & 44 Vict. c. 19, s. 58.

⁵ 16 & 17 Vict. c. 34, s. 55.

authorize the Commissioners of the district to which he has removed to hear and determine his appeal, as if it had been prosecuted before the General Commissioners for the district in which he was assessed. Chap. IV.

Appeal for Apportionment in Case of Divided Occupation.—¹If after assessment made, the land, &c., which is the subject of it has been divided into two or more distinct occupations, any of the occupiers may appeal to the General Commissioners for the district to settle and adjust what proportion of the duty charged shall be paid by each occupier. The General Commissioners thereupon make an apportionment of the duty, and the apportioned duty is collected and levied in like manner as the duty charged by an original assessment.

Relief to Owners who are also Occupiers for Purposes of Husbandry when Profits fall short of Assessment.—We have² already stated the relief afforded to owners who are also occupiers, and also to occupiers, of land for the purposes of husbandry only, in case of the profits and gains arising from the occupation of the lands during the year falling short of the sum on which the assessment was made. ³The appeal is

¹ 23 & 24 Vict. c. 14, s. 4.

² *Ante*, p. 66.

³ 14 & 15 Vict. c. 12, s. 3, which fixes the procedure. The abatement allowed was extended to all occupiers of land for the purposes of husbandry, not being also the owners thereof, and to all owners of land being also the occupiers thereof, and occupying the same for the purposes of husbandry, and

Chap. IV. made to the Commissioners by whom the assessment was made within three calendar months after the expiration of the year of assessment. Notice in writing of the appeal must be given to the Surveyor of the district. If the abatement is allowed, and the whole sum assessed has been paid, the amount of the sum overpaid is certified and repaid, in the same way as an ¹overpayment of duty under Schedule D. is certified and repaid.

Relief for Losses caused by Flood or Tempest.—

² Whenever loss is sustained by any flood or tempest on the growing crops, or on the stock, on lands let to a tenant at a reserved rent without fine, or lands so let are by flood, or tempest, rendered incapable of cultivation for any year, and the owner has in consideration of the loss agreed to make an abatement in the rent, paid by the tenant for any year, the General Commissioners may, upon proof of the facts by oath, make an abatement in the assessment made in respect of the property in such lands for the same year for which an abatement has been made in the rent; and may also make an abatement in the assessment made in respect of the occupations of the lands for the same

obtaining their livelihood principally by husbandry, by 16 & 17 Vict. c. 34, s. 46; and to all owners of land occupying the same for the purposes of husbandry, by 43 & 44 Vict. c. 20, s. 52.

¹ *Post*, p. 242.

² 5 & 6 Vict. c. 35, s. 83.

year. ¹If, in such a case, the owner is an infant, idiot, lunatic, or under other disability, and incapable of consenting to any abatement in the rent, the abatement may nevertheless be made in the assessment made in respect of the occupation. ²And if in such a case, the owner of the lands is also the occupier, the abatement may still be made in the several assessments in respect of the property in, and occupation of, the lands. ³The penalty for making a false or fraudulent claim for abatement is the forfeiture of 100%. Chap. IV.

Case for Opinion of the High Court.—⁴When the General Commissioners have determined any appeal, either the appellant or the Surveyor may, if he is dissatisfied with the decision as being ⁵erroneous in point of law, declare his dissatisfaction to the Commissioners who heard the appeal, immediately after their decision is announced; and having done so may, within twenty-one days after the determination, address a notice in writing to the Clerk of the Commissioners requiring the Commissioners to state and sign a case for the opinion of the High Court. He must, however, pay a fee of twenty shillings to the Clerk before

¹ 5 & 6 Vict. c. 35, s. 84.

² 5 & 6 Vict. c. 35, s. 85.

³ 5 & 6 Vict. c. 35, s. 86.

⁴ 43 & 44 Vict. c. 19, s. 59.

⁵ There is no appeal on a question of fact from the decision of the Commissioners.

Chap. IV. he is entitled to have the case stated. The case sets forth the facts, and the determination of the Commissioners, and is delivered to the person requiring it, who must, within seven days after receiving the case, transmit it to the High Court of Justice, and previously, or at the same time, give notice in writing of the case having been stated on his application, and a copy of the case to the other party, Surveyor or appellant, as the case may be. The High Court hear and determine the question or questions of law arising on the case transmitted, and thereupon reverse, affirm, or amend, the determination of the Commissioners; or they may remit the matter to the Commissioners with their opinion thereon. They may make such order in relation to the matter, including an order as to costs, as they see fit; and the orders so made of the High Court are ¹ final, and conclusive on all parties. But the High Court may, if they think fit, send the case back for amendment before delivering judgment. The jurisdiction of the High Court in this respect may be exercised by a Judge sitting in Chambers, and in vacation as well as in term time. An appeal lies from the decision of the High Court, or of any judge, to the Court of Appeal, and thence to the House of Lords. But notwithstanding that a case so stated is pending before the High Court, the income tax must be paid according to the assessment of the Commissioners by whom the case was stated;

Income tax must be paid notwithstanding pendency of case.

¹ Unless the orders are appealed. See below.

and if the amount of the assessment is afterwards Chap. IV.
altered by the High Court, the difference, if too much
duty has been paid, is repaid with such interest as
the High Court may allow, and if too little duty has
been paid, is deemed arrears, except that it involves no
penalty, and is payable and recoverable as arrears.

Appeal from Additional First Assessment.—¹An additional first assessment allowed by the General Commissioners is subject to appeal in the same manner as a first assessment.

Appeal from Surveyor's Charges.—A certificate by the Surveyor of the particulars of any omission to assess any person liable to the duties, and of the charge which ought to be made upon such person, allowed by the General Commissioners, is ²subject to appeal in the same manner as a first assessment, except that the person charged has ³ten days after service of the notice of charge in which to deliver an amended return, and ⁴the delivery of such amended return, if objected to by the Surveyor, is a sufficient notice of appeal; or if the person charged makes no amended return within the ten days, he may, on the day appointed for hearing appeals, appear before the Commissioners, who must hear and determine the

¹ As to additional first assessments, see *ante*, p. 135.

² 43 & 44 Vict. c. 19, s. 63.

³ 43 & 44 Vict. c. 19, s. 64.

⁴ 43 & 44 Vict. c. 19, s. 65.

Chap. IV. case, although no notice of appeal has been given.

— If the Commissioners have no meeting within the time limited for hearing appeals from the charges of the Surveyor, or if the Surveyor has not had notice of a meeting of the Commissioners, they must sign and allow the certificates at their first meeting held thereafter, and afterwards hear and determine all appeals.

Appeal against Surcharges.—¹Appeals against surcharges are heard and determined in the same manner as appeals against first assessments. But if the person surcharged is prevented by absence, or sickness, or other sufficient cause, from appealing within twenty-one days after the date of the notice of charge, or from attending in person within such time, the Commissioners may postpone the hearing of the appeal for such time as they may think necessary. The “sufficient cause” above mentioned must be proved before the Commissioners on the oath or solemn affirmation of the person appealing, or otherwise. ²If the surcharge is allowed by the Commissioners, in whole or in part, the assessment on the amount of the surcharge allowed is made in treble the rate of duty; but the General Commissioners may remit, in whole or in part, the treble duty, and charge the single duty only, when they are of opinion :—

- (a) That the original return would have enabled the Surveyor to amend the assessment ;

¹ 43 & 44 Vict. c. 19, s. 67.

² 43 & 44 Vict. c. 19, s. 68.

- (b) That there was no intention to defraud the Chap. IV.
revenue.
- (c) That the person charged was prevented from making an amended return by sickness, or other sufficient cause ;
- (d) That there was reasonable cause of doubt or controversy on the part of the appellant on the subject-matter of appeal.

Appeal in respect of Duties charged upon Mines of Coal, &c., Quarries, may be to the Special Commissioners.

—¹Any person assessed to the duty chargeable under Schedule A. in respect of any mine of coal, tin, lead, copper, mundie, iron, or any other mine, or any quarry of stone, or slate, may, if he thinks fit, appeal against such assessment to the Special Commissioners instead of to the General Commissioners, upon giving due notice of his intention to do so ; and thereupon the appeal is heard and determined by two or more of the Special Commissioners, in like manner as an ²appeal against an assessment of the duties under Schedule D.

Relief from Double Assessments.—³Whenever any person has been assessed, either on his own account, or on behalf of another, and is by any error or mistake again assessed for the same cause, and on the same account, and for the same year, he may apply

¹ 23 & 24 Vict. c. 14, s. 7.

² See *post*, pp. 234 *et seq.*

³ 5 & 6 Vict. c. 35, s. 171.

Chap. IV. to the General Commissioners acting for the division or place for which he has been assessed by error or mistake, for the purpose of being relieved from such double assessment; and the General Commissioners, on due proof thereof to their satisfaction, must cause the assessment, or such part thereof as is a double charge, to be vacated. The proof may be made either by a certificate of the assessment made upon the applicant under the hands of the Commissioners by whom he has been rightly assessed for the matter or cause in question, certifying that such matter or cause is included in an assessment made by them on the applicant, on the same account and for the same year, or by other lawful evidence given of those facts upon the oath of any credible witness. ¹And whenever it is proved to the satisfaction of the Board that a person has been assessed more than once to the duties for the same cause, and for the same year, they must direct the whole, or such part of such one or more of the assessments as appears to be an overcharge, to be vacated; and thereupon the same is by such order vacated accordingly. ²And whenever it is proved to the satisfaction of the Board that any such double assessment has been made, and has not been vacated, and that payment has been made of both assessments, they may order the Receiver-General of Inland Revenue, or any officer for receipt, to repay the sum so erroneously and doubly assessed and paid.

¹ 43 & 44 Vict. c. 19, s. 60.

² 5 & 6 Vict. c. 35, s. 171; 12 & 13 Vict. c. 1, s. 17.

¹But the claim for repayment must be made within three years next after the end of the year of assessment to which the claim relates. Chap. IV.

SECTION II.—SCHEDULE B.

Mode of appealing against Assessment, and of claiming Exemptions, Allowances, and Abatements.—The mode of appealing against an assessment under Schedule B., and of claiming such of the exemptions, allowances, and abatements, mentioned under the head of Schedule A., as may be claimed upon any assessment under Schedule B., is similar to that adopted in the case of an appeal, or claim, having reference to an assessment under Schedule A. ²The notices of first assessments given by the Assessors, and of the days fixed for appeals, include assessments under Schedule B., as well as assessments under Schedule A.

SECTION III.—SCHEDULE C.

³*Claim of Exemption of Property of Friendly Society invested in Public Securities in Bank of England.*—

⁴Any such property may be claimed and proved by any trustee, or treasurer, of the society, or by any member of the society, before the Special Commissioners.

¹ 5 & 6 Vict. c. 35, s. 171.

² 5 & 6 Vict. c. 35, s. 80; 43 & 44 Vict. c. 19, s. 57.

³ As to this claim, see *ante*, p. 75.

⁴ 5 & 6 Vict. c. 35, s. 88, r. 1.

Chap. IV. ¹ *Claim of Exemption of Stock, &c., of Charitable Institutions—By whom made.*—² The application of the stock, &c., to charitable purposes may be proved before the Special Commissioners by any agent, or factor, on behalf of the institution, or by any of its members, or trustees.

³ *Claim of Exemption of Stock, &c., belonging to her Majesty in the Books of the Bank of England, and to any accredited Minister of any Foreign State resident in Great Britain, if standing in the Name of any Trustee—By whom made.*—⁴ The property in the stock, &c., may be proved before the Special Commissioners by the trustee in whose name it stands.

All Claims of Exemption under Rules in Schedule C.—To whom and where to be made.—⁵ All claims of exemption under any of the rules contained in Schedule C. must be made to the Special Commissioners at the head office of Inland Revenue in England, according to the following rules:—

First rule:
Form of
claim.

1. Every claim must be in writing, in ⁶the prescribed form; and the Special Commissioners must require the same to be verified on the

¹ As to this claim, see *ante*, p. 76.

² 5 & 6 Vict. c. 35, s. 88, r. 3.

³ As to this claim, see *ante*, p. 77.

⁴ 5 & 6 Vict. c. 35, s. 88, r. 5.

⁵ 5 & 6 Vict. c. 35, s. 98.

⁶ That is, in such form as the Board direct.

affidavit of every such person, as they may think necessary. The Special Commissioners have authority to require from every person whom they may think proper to examine touching such claim, true answers upon oath to all such questions as they may think material. Chap. IV.

2. Whenever the Special Commissioners allow any such exemption, they give an order for payment of the sums retained for the duties on the annuities, dividends, and shares, in respect of which they have allowed such exemption, to the respective claimants, or to the attorneys, or agents, who have been authorized to receive the annuities, &c., on behalf of the claimants, and the payment is made in the same manner as ¹is provided with respect to allowances granted under No. 5 of Schedule A. Second rule: Order for payment following allowance of exemption claimed.
- ²But the claim must be made within three years next after the end of the year of assessment to which the claim relates.

Claim of Exemption by a Person whose Yearly Income is less than 150l., and of Abatement by a Person whose Yearly Income is less than 400l.—³This exemption, and abatement, respectively, may be claimed by persons chargeable under Schedule C.;

¹ See *ante*, p. 204.

² 23 & 24 Vict. c. 14, s. 10.

³ 5 & 6 Vict. c. 35, ss. 163—170; 39 & 40 Vict. c. 16, s. 8.

Chap. IV. but, inasmuch as the claim is not made under the rules contained in that schedule, it would seem that it must be made in the manner described when ¹we were treating of similar claims made by persons chargeable under Schedule A. The same remark applies to the claim for abatement allowed on account of life assurance, and purchase of deferred annuities.

Relief against Double Assessment.—The duties under Schedule C. being levied by way of deduction from the annuities, &c., upon which they are charged, it is difficult to see how a case of double assessment can arise with reference to them; but if any such case does occur, ²the enactments ³we have quoted in dealing with cases of double assessment under Schedule A., which oblige the Board, upon proof of the double assessment being made, ⁴within the time limited, to their satisfaction, to vacate the erroneous assessment, and to order the repayment of duty paid under it, will enable a person so charged by error under Schedule C. to obtain the relief to which he is entitled.

Case for Opinion of the High Court.—In case, too, of any appeal to the Special Commissioners, the

¹ *Ante*, pp. 206—210, 212.

² 5 & 6 Vict. c. 35, s. 171; 43 & 44 Vict. c. 19, s. 60.

³ *Ante*, pp. 225—227.

⁴ Three years. 23 & 24 Vict. c. 14, s. 10.

appellant, if dissatisfied with their determination, as Chap. IV.
 being erroneous in point of law, ¹may have a case
 submitted for the opinion of the High Court; the
 procedure being similar to that ²we have described
 when dealing with cases for the opinion of the High
 Court having reference to the duties charged under
 Schedule A. ³An appeal lies from the decision of
 the High Court to Her Majesty's Court of Appeal;
 and from thence to the House of Lords.

SECTION IV.—SCHEDULE D.

*Deductions on Payment of Interest of Money, &c.
 from Profits charged under Schedule D.*—⁴Whenever
 it is proved to the satisfaction of the Commissioners
 acting for the district in which the person making
 the application resides, that any interest of money,
 annuity, or other annual payment, is annually paid
 out of the profits and gains *bonâ fide* accounted for,
 and charged, under Schedule D., without any deduc-
 tion on account thereof, such Commissioners may
 grant a certificate under the hands of any two of
 them, in the ⁵prescribed form, and such certificate
 will entitle the person so assessed, upon payment of
 such interest, &c., to deduct so much as the duty

¹ 43 & 44 Vict. c. 19, s. 59.

² *Ante*, pp. 221—223.

³ 41 & 42 Vict. c. 15, s. 15.

⁴ 5 & 6 Vict. c. 35, s. 104.

⁵ The Board have a general authority to prescribe, supply,
 and approve forms. 43 & 44 Vict. c. 19, s. 15.

Chap. IV. upon such interest would amount to; and such deduction must be allowed by the person entitled to receive such interest, &c. But no such certificate is required when such payments are made out of the profits or gains arising from lands, tenements, or hereditaments, or of any office, or employment of profit, or out of any annuity, pension or stipend, or any dividend or share in public annuities, in order to authorize the making of such deductions.

Exemption in Case of Charitable Institutions from Duties on Interest chargeable under Schedule D.—

¹ Every corporation, fraternity, or society of persons, and trustee, for charitable purposes only is entitled to the same exemption in respect of any yearly interest, or other annual payment, chargeable under Schedule D., in so far as the same is applied to charitable purposes only, as ² is allowed to such corporation, &c. in respect of any stock, or dividends, chargeable under Schedule C., and applied to like purposes. The exemption is allowed by the Special Commissioners, on due proof before them; and the amount of the duties paid by such corporation, &c., in respect of such interest or annual payment, either by deduction or otherwise, is repaid under the order of the Special Commissioners in the ³ same manner

¹ 5 & 6 Vict. c. 35, s. 105.

² See *ante*, p. 76.

³ See *ante*, pp. 228, 229.

as sums allowed by them in pursuance of any ex- Chap. IV.
emption contained in Schedule C. are repaid.

Exemption in Case of Persons whose Income is less than 150l. a Year ; and Abatement in case of Persons whose Income is less than 400l. a Year.—¹This exemption, and abatement, respectively, may be claimed in respect of duties charged under Schedule D., as well as in respect of duties charged under Schedule A. ; and the mode of claiming the exemption or abatement with reference to duties charged under Schedule D. is similar to ²that prescribed for claiming the same with reference to duties charged under Schedule A.

Abatement on Account of Life Assurance, or Purchase of Deferred Annuity.—The claim to this abatement, in case the duty has been assessed without deduction on that account and has been paid as assessed, is made in like manner as a similar ³claim by a person charged under Schedule A.

Allowance on Account of Diminished Value of Machinery by Wear and Tear.—⁴In the case of any

¹ 5 & 6 Vict. c. 35, ss. 163—170 ; 39 & 40 Vict. c. 16, s. 8.

² See *ante*, pp. 206—210, 212.

³ See *ante*, pp. 212, 213.

⁴ 41 & 42 Vict. c. 15, s. 12. We are dealing now, it will be observed, only with the claim to repayment made by the lessor of machinery, &c. As to the deduction for diminished value of machinery, &c., made upon assessment of any such trade, &c., as above mentioned, see *ante*, p. 58.

Chap. IV. trade, manufacture, or concern in the nature of trade, chargeable under Schedule D., when any machinery or plant used for the purposes of the trade, &c. is let upon such terms that the burden of maintaining, and restoring, the same falls upon the lessor, he is entitled, upon claim made to the Special, or General, Commissioners in the manner prescribed by sect. 61 of 5 & 6 Vict. c. 35, to have repaid to him such a portion of the sum which has been assessed and charged in respect of the machinery or plant, and deducted by the lessee on payment of the rent as represents the income tax upon such an amount as the Commissioners think reasonable, as representing the diminished value by reason of wear and tear of the machinery or plant during the year. But no such claim is allowed, unless it is made within twelve calendar months after the expiration of the year of assessment.

Appeal against Assessment made by Additional Commissioners, &c.—Notice of Day for.—¹If any person thinks himself aggrieved by an assessment made by the Additional Commissioners, or by any objection to such assessment made by any Surveyor, he may appeal to the General Commissioners in the same district in which the assessment was made. Ten days' notice of the intention to appeal must be given to the Surveyor. ²If the person assessed removes

¹ 5 & 6 Vict. c. 35, s. 118.

² 16 & 17 Vict. c. 34, s. 55.

from the district in which he was assessed without appealing, and afterwards desires to appeal, the Board may, if they think fit, upon his application, authorize the General Commissioners for the district to which he has removed to hear and determine his appeal, in like manner as if it had been prosecuted before the General Commissioners for the district in which he was assessed. The General Commissioners must from time to time appoint days for hearing appeals as soon after any assessment is returned to them by the Additional Commissioners as can conveniently be done; and the Assessors must give notice of the days so appointed to the different appellants. The meetings of the Commissioners for the purpose of hearing appeals are held from time to time within the time limited by the Commissioners, ¹who cause a general notice to be fixed up in their office, or left with their Clerk, and also to be affixed on, or near to, the door of the church, or chapel, of the parish or place; or, if such parish or place has no church, or chapel, then on, or near to, the door of the church, or chapel, of some adjoining parish or place, limiting the time for hearing all appeals. ²No appeal can, as a general rule, be received after the time so limited, except ³on account of diminution of income, ⁴but if any person

¹ 5 & 6 Vict. c. 35, s. 119.

² 5 & 6 Vict. c. 35, ss. 118 and 119.

³ As to appeals on account of diminution of income, see *post*, pp. 242—244.

⁴ 5 & 6 Vict. c. 35, s. 118.

Chap. IV. is prevented by absence, sickness, or other reasonable cause, to be allowed by the Commissioners, from making, or proceeding upon, his appeal within the time so limited, the Commissioners may give further time for that purpose; or may admit the appeal to be made by any agent, clerk, or servant, on behalf of such appellant; and ¹if the appeal is made on behalf of any person who is absent out of the realm, or prevented by sickness from attending in person within the time so limited, the Commissioners may postpone such appeal from time to time, or admit other proof than the oath of the appellant of the truth of ²the several matters required to be proved by his oath.

Proceedings after Notice of Appeal given, and when Objection of Surveyor allowed.—³The General Commissioners, upon receiving notice of appeal against any assessment made by the Additional Commissioners, and also whenever they see cause to allow an objection of the Surveyor to such assessment, direct their precept to the appellant to return to them, within the time limited in the precept, a schedule containing such particulars as the Commissioners may demand respecting the property of the appellant, or the trade, manufacture, adventure, or concern in the nature of trade, or the profession, employment,

¹ 5 & 6 Vict. c. 35, s. 119.

² As to these matters, see *ante*, p. 217.

³ 5 & 6 Vict. c. 35, s. 120.

or vocation, carried on and exercised by the appellant, **Chap. IV.**
and the amount of the balance of his profits and
gains, distinguishing the amounts received from each
¹separate source, or respecting the particulars of the
deductions from any of such profits or gains made in
the statements or schedules delivered by him. The
Commissioners may demand such schedules at their
discretion, whenever they think them necessary, from
time to time, until a complete schedule satisfactory to
them of all the particulars required by them has
been delivered. The precept of the Commissioners
is delivered to the appellant, or left at his last, or
usual, place of abode; or, if the appellant has
removed from the jurisdiction of the Commissioners,
or cannot be found, is fixed on, or near to, the door
of the church, or chapel, of the place where the
Commissioners meet, and is thereupon binding upon
the appellant. The Surveyor has free access, at all
reasonable times, to any schedule delivered in pur-
suance of the precept of the Commissioners, and may
take such copies thereof, or extracts therefrom, as he
may think necessary. ²He may within a reasonable
time after examining any such schedule, to be allowed
by the Commissioners, object to the schedule, or any
part thereof, and state his objection in writing; and
in such case he must deliver a notice in writing of
his objection, under cover, sealed up, and directed to

¹ As to these sources, see *ante*, pp. 86, 105, 107, 109, and 110.

² 5 & 6 Vict. c. 35, s. 121.

Chap. IV. the appellant, or leave the same at his last, or usual, place of abode, in order that the appellant may, if he thinks fit, appeal from the objection to the Commissioners. No assessment can be confirmed, or altered, until the appeal upon the objection, or the assessment, has been heard and determined. ¹If upon receiving the objection of the Surveyor to any schedule the Commissioners see cause to disallow the objection, or if upon hearing any appeal they are satisfied with the assessment made by the Additional Commissioners, or if after delivery of a schedule they are satisfied therewith, and have received no information of its insufficiency, the General Commissioners direct such assessment to be confirmed, or altered, as the case requires. But if the General Commissioners think that the statement upon which the Additional Commissioners made their assessment, or the schedule delivered to themselves, should be verified, they direct the Assessor to give notice to the person charged to appear before them to verify the statement or schedule, and such person must appear accordingly and verify the contents of his statement or schedule on oath and sign the same; but he is at liberty to amend the statement or schedule before being required to take the oath. The Commissioners may also, if they are dissatisfied with any assessment returned to them by the Additional Commissioners, or with any schedule delivered to them, or if they

¹ 5 & 6 Vict. c. 35, s. 122.

require any further information, make the enquiries Chap. IV. and proceed in the manner we have ¹before described. After such oath, and whenever the statement or schedule has not been objected to, and the Commissioners are satisfied therewith, they make an assessment according to the statement or schedule, which is final and conclusive as to the matters contained in the statement or schedule. ²When any person has neglected, or refused, to return a schedule according to the exigency of the precept of the Commissioners, or any clerk, agent, or servant, of any such person, being summoned, has neglected, or refused, to appear before the Commissioners to be examined, or if any such person, or his clerk, agent, or servant, being summoned has declined to answer any question put to him in writing, or *viva voce*, by the Commissioners, or where any schedule delivered has been objected to and the objection has not been appealed against, or when any person being required to verify his statement or schedule, or his answers, or examination in writing, shall have neglected, or refused, to do so, or when the Commissioners agree to allow the objections, or any of them, made by the Surveyor, the Commissioners settle and ascertain according to the best of their judgment in what sums the person chargeable ought to be charged, and make an assessment accordingly, which is final and conclusive. ³In

¹ *Ante*, pp. 180—182.

² 5 & 6 Vict. c. 35, s. 126.

³ 5 & 6 Vict. c. 35, s. 127.

Chap. IV. every case in which the General Commissioners have
— made any increased assessment upon the amount contained in the statement or schedule of the person to be charged, or at any time discover that any increase ought to be made, whether upon the surcharge of the Surveyor, or from his information or otherwise, they may charge such person in a sum not exceeding treble the amount by which the duties have been increased, unless he makes it appear to the satisfaction of the Commissioners that the omission complained of did not proceed from any fraud, covin, act, or contrivance, or from gross, or wilful neglect.

Appeal may be to Special Commissioners instead of to General Commissioners.—¹In any case in which an appeal is allowed to be made to the General Commissioners against any assessment under Schedule D., or against any objection of the Surveyor to such assessment, or against any surcharge of the duties, he may, if he thinks fit, instead of appealing to the General Commissioners, appeal to the Special Commissioners. In that case he must give notice in writing of his intention to the Surveyor, within the time limited for notice of appeal to the General Commissioners in similar cases. The appeal is then heard and determined by two or more of the Special Commissioners directed by the Board to hear appeals

¹ 5 & 6 Vict. c. 35, s. 130.

in the district in which the appellant is chargeable; and their determination is final and conclusive. But every appeal upon a claim to exemption on account of the appellant's income being less than 150*l.* a year must be made to the General Commissioners.

Appeal in Case of Assessment by Special Commissioners on Application of Persons chargeable.—¹An assessment made by the Special Commissioners upon the application of the person chargeable is subject to appeal by either the person charged, or the Surveyor; and the appeal is made in like manner, and under like rules and regulations, as ²an appeal against an assessment made by the Additional Commissioners; but every such appeal is heard and determined by the Special Commissioners directed by the Board to hear appeals in the district. If either the person charged, or the Surveyor, thinks the determination of the Special Commissioners on any such appeal is wrong, and then expresses himself dissatisfied therewith, the Commissioners must, if required, state specially, and sign, the case upon which the question arises, with their determination thereon, and transmit the same to the Board for their opinion, who, with all convenient speed, state, and subscribe, their opinion on the case so transmitted, and according to the opinion of the Board,

¹ 5 & 6 Vict. c. 35, s. 131.

² See *ante*, pp. 234 *et seq.*

Chap. IV. whose decision is final and conclusive, the assessment is altered or confirmed.

Relief on Account of Diminution of Income.—¹If within, or at the end of, the year current at the time of making any assessment, or at the end of any year when such assessment ought to have been made, any person charged to the duties under Schedule D., finds, and proves to the satisfaction of the General Commissioners, that his profits and gains during such year fell short of the sum at which those profits and gains were computed, in respect of the same ²source of profit as that upon which the computation was made, the Commissioners may amend the assessment for such current year as the case may require; and, if the sum assessed has been paid, they certify under their hands to the Special Commissioners, at the ³Chief Office for Inland Revenue in England, the amount of the sum overpaid upon the assessment, and thereupon the Special Commissioners issue an order for the repayment of the sum overpaid, directed to the Receiver General of Inland Revenue, or to an officer for receipt, or Collector, of the duties, or to a distributor, or sub-distributor, of stamps, as in the case of ⁴allowances granted under No. 5 of Sche-

¹ 5 & 6 Vict. c. 35, s. 133.

² As to the sources of profit, see *ante*, pp. 86, 105, 107, 109, 110.

³ 12 & 13 Vict. c. 1, s. 17.

⁴ As to these allowances, see *ante*, p. 204.

dule A. ¹But no such reduction or repayment will be made in any case unless the profits of the year of assessment are proved to be less than the profits for one year on the average of the last three years, including the year of assessment; and no such relief will exceed in amount the difference between the sum on which the assessment has been made and such average profits for one year as aforesaid. ²And in case any person charged to the duties under Schedule D. ceases to exercise the profession or to carry on the trade, employment, or vocation in respect of which the assessment was made, or dies, or becomes bankrupt or insolvent before the end of the year for making the assessment, or from any other specific cause, is deprived of, or loses, the profits or gains on which the computation of duty was made, such person, or his executors, or administrators, may apply to the General Commissioners of the district within three calendar months after the end of such year; and upon proof of the facts to the satisfaction of the Commissioners, they may amend the assessment as the case may require, and give such relief to the person charged, or to his executors or administrators, as is just. In cases requiring the same, the Commissioners may order repayment to be made as above of the sum overpaid. But when any person has succeeded to the trade or business of the person

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¹ 28 & 29 Vict. c. 30, s. 6.

² 5 & 6 Vict. c. 35, s. 134.

Chap. IV. charged, no abatement is made, unless the Commissioners are satisfied that the profits and gains of such trade or business have fallen short from some specific cause since such change or succession took place.

Appeal against Surveyor's Charges and against Surcharges.—What ¹has been said of appeals against a Surveyor's charges, and against surcharges under Schedule A., applies equally to appeals against similar charges and surcharges under Schedule D.

Case for Opinion of High Court.—²Upon the determination of any appeal by the General Commissioners, or by the Special Commissioners, either the appellant or Surveyor may, if dissatisfied with the determination as being erroneous in point of law, require a case to be stated in the manner we have ³before described. ⁴An appeal lies from the decision of the High Court to Her Majesty's Court of Appeal, and from thence to the House of Lords.

Relief from Double Assessment.—⁵Whenever it appears to the Board that a person has been assessed more than once to the duties for the same cause and

¹ *Ante*, pp. 223, 224.

² 43 & 44 Vict. c. 19, s. 59.

³ *Ante*, pp. 221—223.

⁴ 41 & 42 Vict. c. 15, s. 15; 43 & 44 Vict. c. 19, s. 59.

⁵ 43 & 44 Vict. c. 19, s. 60.

for the same year, they direct the whole, or such part, Chap. IV. of any assessment appearing to be an overcharge to be vacated.

SECTION V.—SCHEDULE E.

Claims of Exemption, Appeals, &c. upon Assessments under Schedule E.—There is not much to be said with regard to claims of exemption, and abatement, and appeals made upon assessments under Schedule E. The necessity for making such claims or appeals can rarely, if ever, arise in cases where the assessment is made by the Commissioners for the particular office, or department, in which the employment of profit, which is the subject of assessment, is carried on. In cases where the assessment is made by the General Commissioners of a district, much of what we have said upon the subject of claims and appeals in dealing with assessments made under the other schedules, will be applicable to assessments under Schedule E. We will add only the following provisions, which have special reference to the last-mentioned assessments:—

1. ¹When a change has taken place during the year of assessment in any office or employment, chargeable under Schedule E., the assessment in respect of such office or employment is levied for the whole year, notwithstanding such change, without any new

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assessment; but the person quitting such office or employment, or dying within the year, or his executors or administrators, is, or are, liable for the arrears due before, or at the time of, his so quitting such office or employment, or dying, and for such further period of time as shall then have elapsed, to be settled by the respective Commissioners; and his successor has a right to be repaid such sums as he has paid for duty on account of such portion of the year as aforesaid; and each such assessment remains in force for one whole year, unless the office, or employment, or the annuity, pension, or stipend, payable in respect thereof ceases, or expires within the year by lapse, death, or otherwise, from which period the assessment is discharged.

2. ¹In every case in which any person holding any office or employment, or being entitled to any pension, or stipend, claims to be exempt from such assessment, the Commissioners must nevertheless set down in such assessment the name of such person, and the full and just value of such office, &c.; and the claim to such exemption must be preferred, and examined, and the merits thereof heard and determined, under the regulations in force with respect to other assessments.

¹ 5 & 6 Vict. c. 35, s. 152.

3. ¹In cases of claim to exemption on account of Chap. IV.
the claimant's income being less than 150%
a-year, where the whole income of the
claimant arises from an office, or employ-
ment of profit, the duties whereon are cog-
nizable before the Commissioners of a depart-
ment of office, or from a pension, or stipend,
the claim may be made to, and allowed by,
the Commissioners of the department in
which the duties are cognizable; and if the
claimant is out of Great Britain the facts
required to be stated in support of the claim
may be stated by affidavit taken before any
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¹ 5 & 6 Vict. c. 35, s. 169.

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